

REPORT TO: LICENSING COMMITTEE

DATE: 12 MARCH 2019

TITLE: PRIVATE HIRE OPERATOR APPLICATION
PROCEDURE UPDATE

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RECOMMENDED that:

- A** The revised Operator Licensing Procedures, attached as Appendix 2 to the report, be adopted.

BACKGROUND

1. The Council regulates the provision of 'Private Hire' vehicles under the provisions Local Government (Miscellaneous Provisions) Act 1976 (the Act). These provisions provide for the licensing of drivers, vehicles and operators.
2. Current Council procedures for the grant of an operator's licence under Section 55 of the Act are reproduced in Appendix 1 to the report. The procedure is divided into two sections, the first relates to an Operator wishing to conduct his business from residential premises and the latter in regard to an Operator wishing conduct his business from commercial premises. Current procedures require the Council to consult with Essex Fire and Rescue and with Essex Police. No more than two vehicles may be operated from residential premises.

ISSUES/PROPOSALS

3. The Act does not provide grounds for the refusal by the Council to grant to a person a licence to operate a limited number of vehicles from residential premises. The only grounds for refusal are those relating to whether the applicant is a fit and proper person or ineligible by reason of his immigration status.
4. The absence of available parking and the likelihood of increased congestion around a residential Operator's base may give cause for concern to local residents. Some local authorities have attempted to impose a condition on licence which prohibits more than a specified number of private hire vehicles being parked within a specified distance of the Operator's base. Whilst this would at first sight appear to be a sensible measure to limit congestion around a residential Operator's base, some legal commentators have suggested that such a condition is not justified by the law. Furthermore, any vehicle which is insured,

taxed and has a current MOT may be parked at any legitimate parking place on the public highway subject to parking restrictions. It is difficult to see how a local authority can remove such rights by imposing a condition on a licence.

5. An Operator working from residential premises may need to obtain Planning Consent. Some local authorities require this to be obtained before an application for an Operator's licence will be considered. The counter position is that licensing and planning functions are distinct requirements and should be dealt with independently. The latter accords with comparable provisions under the Licensing Act 2003 and the Gambling Act 2005 where the grant of a premises licence is not contingent on the existence of planning consent.
6. Essex Police have advised that they do not require notification of an application for an Operator licence and will not make representations.
7. Adoption of revised procedures, attached as Appendix 2 to the report, for the grant of an Operator's licence is proposed. These proposals reflect the considerations set out at paragraphs 3 to 6 of the report. It will be made clear to all licence holders that grant of an Operator licence does not confer consent under any other legislation. Essex Police and Fire and Rescue will no longer be consulted.

IMPLICATIONS

Place (Includes Sustainability)

Licensing considerations are as set out in the report.

Author: Michael Pitt, Environment and Licensing Manager

Finance (Includes ICT)

None specific.

Author: Andrew Smith, Finance Manager on the behalf of Simon Freeman, Head of Finance and Deputy to the Managing Director

Housing

None specific.

Author: Andrew Murray, Head of Housing

Community Wellbeing (Includes Equalities and Social Inclusion)

As contained within the report .

Author: Jane Greer, Head of Community Wellbeing

Governance (Includes HR)

Subject to these changes, Section 55(3) Local Government (Miscellaneous) Provisions Act 1976 will still allow Members the right to attach conditions to the grant of a private hire operator licence where they consider it reasonably necessary to do so.

Author: Simon Hill, Head of Governance

Appendices

Appendix 1 – Existing Procedures for Grant of an Operator Licence using
Commercial and Residential Premises

Appendix 2 – Proposed Procedures for Grant of an Operator Licence

Background Papers

None

Glossary of terms/abbreviations used

The Act – The Local Government (Miscellaneous Provisions) Act 1976