

LICENSING COMMITTEE AGENDA



Wednesday 2nd July 2008

at 10.00am

**in Committee Room B,
Civic Centre, Hartlepool**

MEMBERS: LICENSING COMMITTEE:

Councillors Aiken, Atkinson, Brash, R W Cook, Fleet, Fleming, Griffin, Hall, Jackson, G Lilley, London, McKenna, Dr Morris, Rogan and Tumilty

- 1. APOLOGIES FOR ABSENCE**
- 2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**
- 3. MINUTES**
 - 3.1 To confirm the minutes of the meeting held on 16th May 2008 (*attached*)
- 4. ITEMS FOR DECISION**
 - 4.1 Licensing Committee Sub-Committee Memberships – *Assistant Chief Executive*
 - 4.2 Update on Licensing Act Sub-Committees and Hackney Carriage and Private Hire Sub-Committees Activity – *Assistant Chief Executive*
 - 4.3 Review of Policy and Procedure for the Consideration of Previous Criminal Convictions – *Head of Procurement, Property & Public Protection and Housing*
 - 4.4 Review of Street Trading Controls – *Head of Procurement, Property and Public Protection and Housing*
- 5. ITEMS FOR INFORMATION**

No items
- 6. ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT**

LICENSING COMMITTEE

MINUTES AND DECISION RECORD

16th May 2008

The meeting commenced at 10.00 a.m. in the Civic Centre, Hartlepool

Present:

Councillor Dr Morris (In the Chair)

Councillors: Reuben Atkinson, Jonathan Brash, Gerard Hall, Pauline Laffey,
Geoff Lilley, Frances London and Carl Richardson

Officers: Sylvia Pinkney, Consumer Services Manager
Tony Macnab, Solicitor
Jo Wilson, Democratic Services Officer

Also present:

Representatives from local taxi firms and independent drivers

31. Apologies for Absence

Apologies were received from Councillors Rob Cook, Mary Fleet, Tim Fleming, Sheila Griffin and Peter Jackson.

32. Declarations of interest by members

None.

33. Minutes

The minutes of the meeting held on 12th March 2008 were confirmed as a true record.

34. Hackney Carriage Tariffs *(Head of Procurement, Property and Public Protection)*

Purpose of report

To consider an increase in Hackney Carriage tariffs.

Issue(s) for consideration by the Committee

At the Licensing Committee meeting in December 2007 it was agreed that

there would be an annual review of Hackney Carriage tariffs taking into account any proposals made at the Vehicle Owners Annual General Meeting. Following a consultation exercise no tariff proposals were submitted by the Hackney Carriage trade and it was formally agreed at their AGM in January 2008 that there would be no request for a general tariff increase in 2008. In April 2008 a letter signed by 12 Hackney Carriage owners was received requesting an increase of 30p on the 'flag fall' – the initial cost of hiring the vehicle plus the first few hundred yards. Initial enquiries had shown 17 vehicle owners in favour of the proposed rise with two against – representing 25% of all Hackney Carriages in favour and 25% against. However following publication of the papers for this meeting 19 vehicle owners (20 vehicles) had indicated themselves in favour of the rise with 21 vehicle owners (60 vehicles) against – of a total fleet of 170 vehicles.

A number of issues were detailed within the report including the recent rise in fuel prices and the current status of Hartlepool's Hackney Carriage tariffs as the fourth cheapest in the country. Members were further reminded that the tariff increase would be the maximum amount that could be charged but drivers were at liberty to charge less than this amount should they so wish. Any increase voted by members would need to be advertised in the local press for 2 weeks. Should any objections be received the matter would need to be referred back to the Licensing Committee. Therefore assuming no objections the earliest the increase could take effect would be in approximately three weeks time.

The Chair invited members of the taxi trade both for and against the increase to explain their position. Those against the increase explained that they felt their business would suffer as a result of the introduction of this rise. Potential passengers would see the initial fee on entering the vehicle and would choose to exit the vehicle prior to the journey and walk or take alternative public transport. This would also lead to an increase in the use of Private taxi firms, who were not obliged to display their fare, at the expense of Hackney Carriage Firms. The drivers acknowledged that the fare displayed was the maximum allowed and therefore they could charge less. However this would cause problems with the balancing of accounts by drivers at the end of a shift and the problem of passenger expectation would still remain. They requested that the Committee give consideration to basing the increase on the distance travelled rather than the flag fall and that any proposed rise be scheduled for September following the school summer holidays.

Drivers in favour of the increase disputed the idea that passengers would exit the vehicle upon seeing the flag fall rate. They explained that the recent increase in fuel costs had left them struggling to make a living, particularly when they were dependent on work from the taxi ranks. If the rise was not implemented they could be forced to seek alternative employment.

During the debate that followed members acknowledged that while 30p was a lot of money to some people even with the rise taxi fares would still be the cheapest in the local area. They felt that larger taxi companies would be able to absorb the rise in fuel costs more easily than individual taxi drivers and

independent drivers were entitled to make a living just as everyone else. The number of taxi drivers on less than minimum wage was unacceptable and something should be done to rectify this. Larger taxi companies were making their living at the expense of the rank drivers.

It was also felt that passengers should expect to absorb some of the increased fuel costs in their fares especially given that Hartlepool taxi fares were the fourth cheapest in the country. Therefore members asked that the tariff increase be deferred until such time as officers were able to work with local taxi owners to find a more equitable solution, possibly based upon distance as well as flag fall. By doing this members felt fares could possibly be increased by more than was proposed but in a way that was fairer to short haul passengers. It was also suggested that a system to automatically link tariff increases with fuel rises could be devised for the future.

Decision

That an increase on current tariffs be deferred to a future meeting of the Licensing Committee to enable discussion between Licensing officers and representatives of local taxi companies.

CHAIRMAN

Report of: Assistant Chief Executive

Subject: LICENSING COMMITTEE SUB COMMITTEE
MEMBERSHIPS

1. PURPOSE OF REPORT

- 1.1 To re-appoint and fill vacancies in the Licensing Act Sub Committees and Hackney Carriage and Private Hire Sub Committees.

2. BACKGROUND

- 2.1 Following the recent elections and changes to the membership of the Licensing Committee some amendments to the sub committee memberships are required.

- 2.2 There are five Licensing Act Sub Committees each consisting of three members and three Hackney Carriage and Private Hire Sub Committees each of five members.

- 2.3 Following the elections and the annual meeting the current sub committee memberships are as follows:

Licensing Act Sub Committee 1 – Councillors Hall (Ch.), **Vacancy** and Fleming

Licensing Act Sub Committee 2 – Councillors R. Cook (Ch.), Atkinson and Rogan

Licensing Act Sub Committee 3 – Councillors Griffin (Ch.), **Vacancy** and **Vacancy**

Licensing Act Sub Committee 4 – Councillors G Lilley (Ch.), **Vacancy** and **Vacancy**

Licensing Act Sub Committee 5 – Councillors Brash (Ch.), Morris, and **Vacancy**.

While it is accepted that political balance is difficult to maintain on sub committees of three, there should at least be two parties represented on each sub committee.

Hackney Carriage and Private Hire Licensing Sub Committee 1 –
Councillors **Vacancy** (Ch.), Hall, Fleming, London and Rogan

Hackney Carriage and Private Hire Licensing Sub Committee 2 –
Councillors Morris (Ch.), Brash, Griffin, G Lilley and **Vacancy**

Hackney Carriage and Private Hire Licensing Sub Committee 3 –
Councillors R. Cook (Ch.), Atkinson, Fleet, **Vacancy** and **Vacancy**

3. LEGAL CONSIDERATIONS

- 3.1 There are two newly appointed members to the Licensing Committee, Councillors Aiken and McKenna. As new members to the Licensing Committee, the Councillors are required to undergo appropriate training before they can be involved in the Licensing Act Sub Committees. This is currently being arranged.

4. RECOMMENDATION

The Committee is requested to nominate Councillors from the overall Committee membership to fill the existing vacancies in the sub committee memberships.

5. REASONS FOR RECOMMENDATIONS

Without the vacancies being filled the Licensing Sub Committees cannot operate properly as three members need to be present for a Licensing Act hearing to proceed. The situation is similar for Hackney Carriage Sub Committees where a quorum of three is required.

6. BACKGROUND PAPERS

Licensing Act Committee Minutes 7 January 2005
Licensing Act Committee Minutes 27 July 2005
Licensing Committee Minutes 15 March 2006

7. CONTACT OFFICER

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Report of: Assistant Chief Executive

Subject: UPDATE ON LICENSING ACT SUB COMMITTEES AND
HACKNEY CARRIAGE AND PRIVATE HIRE SUB
COMMITTEES ACTIVITY

1. PURPOSE OF REPORT

To update Members on the work undertaken by the five Licensing Act Sub Committees and the three Hackney Carriage and Private Hire Licensing Sub Committees.

2. BACKGROUND

The Licensing Committee at its meeting on 15 March 2006 (Minute No. 61 refers) agreed to receive regular reports on the work of the sub committees when establishing the new Hackney Carriage and Private Hire Licensing Sub-Committees.

Attached as appendices to the report are tables setting out briefly the work undertaken by the sub committees since last reported to the Committee on 12 December 2007. From the tables Members will see that the Licensing Act Sub Committees have considered one (1) matter, while the Hackney Carriage and Private Hire Licensing Sub-Committees have considered twelve (12) driver applications in the same period.

As this report is for Members information only, there are no specific risk implications or financial or legal considerations to report.

3. RECOMMENDATIONS

That Members note the report and the information set out in the two appendices.

6. REASONS FOR RECOMMENDATIONS

The report is for Members information only in compliance with the decision of the committee on 15 March 2006

7. BACKGROUND PAPERS

Minutes of Licensing Committee held on 15 March 2006

Published minutes of the Licensing Act Sub Committees and the Hackney Carriage and Private Hire Licensing Sub-Committees held in 2007 and 2008.

8. CONTACT OFFICER

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Appendix 1

Licensing Act Sub Committees

Premises / Individual	Date	Application Type	Application	Members	Objectors Present	Decision	Latest Operational Hour Granted
Ashfield Caravan Park	7 February 2008	Premises Licence	Variation	Councillors Kaiser (Chair), Hall and Jackson	Head of Public Protection & Housing.	Application granted.	11.00 pm

Appendix 2

Hackney Carriage and Private Hire Licensing Sub Committees

Date	Members	Application Type (Driver's Licence)	Applicant	Applicant Present	Decision
14 December 2007	Councillors R Cook, Atkinson, Fleet, Laffey and Morris	Private Hire	AN	Yes	No Action
		Private Hire	PC	Yes	No Action
		Hackney Carriage	LAH	Yes	Licence Revoked
28 January 2008	Councillors Kaiser, Fleming, Hall and London	Private Hire	ATH	Yes	Approved
		Hackney Carriage	MNE	Yes	Refused
17 March 2008	Councillors Morris, G Lilley and Richardson	Private Hire	PG	Yes	Approved
		Hackney Carriage	AM	No	Deferred
		Private Hire	MAC	No	Deferred
10 June 2008	Councillors Atkinson, Brash, R Cook, Fleet and G Lilley	Hackney Carriage	WM	Yes	Revoked
		Private Hire	SSM	Yes	Refused
		Private Hire	MAC	Yes	No Action
		Hackney Carriage	AM	No	Refused

Report of: Head of Procurement, Property & Public Protection
and Housing

Subject: REVIEW OF POLICY AND PROCEDURE FOR THE
CONSIDERATION OF PREVIOUS CRIMINAL
CONVICTIONS

1. PURPOSE OF REPORT

- 1.1 To review the current arrangements for the consideration of previous criminal convictions for hackney carriage and private hire drivers.

2. BACKGROUND

- 2.1 On 2nd March 2005 Members approved the adoption of a revised policy to be used for the determination of hackney carriage and private hire drivers licence applications, suspensions and revocations where such drivers had previous criminal convictions. The adopted policy is attached as Appendix I.
- 2.2 Since its introduction in 2005 a number of licence applicants have been brought to Members for consideration of their suitability to hold a licence and Members have referred to the policy as guidance to assist them with their deliberations.
- 2.3 Some Members have indicated that the current policy has required some applicants to be brought before Committee where, due to the nature of the offence(s) or the time elapsed since the occurrence(s), was such that the granting of the licence was, in effect, inevitable.
- 2.4 As a result, Members requested that the current policy be re-examined.
- 2.5 The review of the current policy has also provided the opportunity for a more fundamental review of the current licensing procedures and, in particular, the consideration given to the relevance of previous convictions.
- 2.6 Hartlepool Borough Council has a duty under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 to issue drivers licences to those applicants that it considers to be 'fit and proper'.
- 2.7 The current licensing procedure requires all new applicants to obtain an Enhanced Criminal Records Bureau (CRB) Disclosure that details any previous criminal convictions the applicant may have.

- 2.8 If there are any convictions that fall within the parameters detailed in Appendix A of the current policy, the applicant is referred to a hackney carriage/private hire Licensing Sub-Committee for consideration.
- 2.9 If a licence is granted, licence holders are permitted to carry any class of passenger – unaccompanied and unsupervised. This may, and often does, include young children and vulnerable adults.

3. ISSUES

- 3.1 At present, Members make decisions about the relevance of any previous convictions, and the suitability of the applicant to carry all classes of passenger, without reference to any other Council department.
- 3.2 Partly as a result of this, for those licensed drivers who contract with Children's Services to carry children to and from school, Children's Services obtain a further Enhanced CRB disclosure, at the Council's expense, and make their own determination about a driver's suitability to carry unaccompanied children.
- 3.3 A potential result of this duplication is that a licence to drive taxis (and therefore carry all classes of passenger) could be granted by Members but Children's Services could refuse to offer a contract to the same driver due to their concerns about his/her suitability to carry children.
- 3.4 In order to avoid this type of occurrence, initial discussions have taken place with Human Resources, Children's Services and Adult & Community Services with a view to involving them in the licensing process. This would allow them to have confidence in the licensing process and remove the need for duplication.
- 3.5 Involving representatives of Children's Services and Adult & Community Services in the licensing process would allow them to highlight any concerns they may have about an applicant's history or previous convictions which would, in turn, allow Members to make a more informed decision.
- 3.6 It would also streamline the process for applicants who would no longer be required to satisfy different Council departments as to their suitability to drive.
- 3.7 If representatives of other departments become involved in considering an applicant's suitability, it is likely that more applicants would be referred to Licensing Sub-Committees than are at the present time.
- 3.8 One possible solution to this would be to introduce a panel of officers, representing Licensing and the other interested Council departments, who would make initial decisions about the suitability of applicants and grant licences where no concerns were raised.

- 3.9 This could be achieved by interviewing applicants who had previous convictions to establish their history and relevance. If no officers had concerns following the interview it would be possible for that licence to be granted – without reference to a Licensing Sub-Committee.
- 3.10 Where one or more officers believed that, following the interview, a licence should not be granted, the applicant would be referred to the Licensing Sub-Committee for consideration. Representations would be made to Members by the concerned departments and this would allow Members to make more informed decisions about an applicant's suitability.
- 3.11 A process chart detailing the procedure is attached as **Appendix II**.
- 3.12 Should Members be minded to agree to such a procedure it would be necessary for the officer representing Licensing on the panel to be able to refer to a policy document that reflected Members views on previous convictions.
- 3.13 It is therefore proposed that the officer refer to the current policy attached as **Appendix I** for guidance but that **Appendix A** of that policy be disregarded.

4. RECOMMENDATIONS

- 4.1 That Members endorse the proposed new procedure for the consideration of previous criminal convictions and instruct officers to secure an agreement with Children's Service and Adult & Community Services for the adoption of such a procedure.
- 4.2 That the Head of Procurement, Property & Public Protection be appointed as responsible officer to represent the Licensing Committee on the joint officer panel established to consider licence applications and grant licences where considered appropriate.
- 4.3 That the policy attached as Appendix I be retained as the appropriate guidance document for use when considering the relevance of previous convictions but that Appendix A of that document be removed.

Appendix I**GUIDANCE RELATING TO THE RELEVANCE OF CONVICTIONS****Use of Information**

The fact that a person has a criminal record or is known to the police does not necessarily mean that he or she is unfit to hold a driver's licence. The authority should make a balanced judgement about a person's suitability taking into account only those offences, which are considered relevant to the person's suitability to hold a licence. A person's suitability should be looked at as a whole in the light of all the information available.

In deciding the relevance of convictions, the authority will want to bear in mind that offences which took place many years in the past may often have less relevance than recent offences. Similarly, a series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. In any event the importance of rehabilitation must be weighed against the need to protect the public.

General Policy

1. Each case will be decided on its own merits.
2. A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but should be expected to remain free of conviction for 3 to 5 years, according to the circumstances, before an application is entertained. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. However, the overriding consideration should be the protection of the public.
3. The following examples afford a general guide on the action to be taken where convictions are admitted.

(a) Minor Traffic Offences

Convictions for minor traffic offences, e.g. obstruction, waiting in a restricted street, speeding etc, should not prevent a person from proceeding with an application. If sufficient points have been accrued to require a period of disqualification of the applicant's driving licence then a hackney carriage or private hire vehicle licence may be granted after its restoration but a warning should be issued as to future conduct.

(b) Major Traffic Offences

An isolated conviction for reckless driving or driving without due care and attention etc, should normally merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire vehicle drivers. More than one conviction for this type of offence within the last two years should merit refusal and no further application should be considered until a period of 1 to 3 years free from convictions has elapsed.

Members may feel that applicants who have such convictions could not be considered as fit and proper to hold a licence as the nature of these offences casts a serious doubt on the applicant's ability to transport passengers in safety.

(c) Drunkenness**(i) With Motor Vehicle**

A serious view should be taken of convictions of driving or being in charge of a vehicle while under the influence of drink. An isolated incident should not necessarily debar an applicant but strict warnings should be given as to future behaviour. More than one conviction for these offences should raise grave doubts as to the applicant's fitness to hold a licence. At least 3 years should elapse (after the restoration of the driving licence) before an applicant is considered for a licence. If the applicant is a suspected alcoholic, a special medical examination should be arranged before the application is entertained. If the applicant is a confirmed alcoholic a period of 5 years should elapse after treatment is complete before a further licence application is considered.

Members may feel that applicants that have such convictions could not be considered as fit and proper to hold a licence as the nature of these offences casts a serious doubt on the applicant's ability to transport passengers in safety.

(ii) Not in Motor Vehicle

An isolated conviction for drunkenness need not debar an applicant for gaining a licence. However, a number of convictions for drunkenness could indicate a medical problem necessitating critical examination (see (i) above). In some cases, a warning may be sufficient.

(d) Drugs

An applicant with a conviction for a drug related offence should be required to show a period of at least 3 years free of convictions before an application is entertained, or 5 years after detoxification treatment if he/she was an addict.

Members may feel that applicants that have such convictions could not be considered as fit and proper to hold a licence as the nature of these offences casts a serious doubt on the applicant's ability to transport passengers in safety.

(e) Indecency Offences

As hackney carriage and private hire vehicle drivers often carry unaccompanied passengers, applicants with convictions for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences, should be refused until they can show a substantial period (at least 3 to 5 years) free of such offences. More than one conviction of this kind should preclude consideration for at least 5 years. In either case if a licence is granted a strict warning as to future conduct should be issued.

Members may feel that applicants that have such convictions could not be considered as fit and proper to hold a licence as the nature of these offences casts a serious doubt on the applicant's ability to transport unaccompanied passengers in safety.

(f) Violence

As hackney carriage and private hire vehicle drivers maintain close contact with the public, a firm line should be taken with applicants who have convictions for grievous bodily harm, wounding or assault. At least 3 years free of such convictions should be shown before an application is entertained and even then a strict warning should be administered.

Members may feel that applicants that have such convictions could not be considered as fit and proper to hold a licence as the nature of these offences casts a serious doubt on the applicant's ability to transport passengers in safety.

(g) Dishonesty

Hackney carriage and private hire vehicle drivers are expected to be persons of trust. The practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the change in currency and become "fair game" for an unscrupulous driver. In addition to this, taxi drivers often collect holidaymakers from their homes and transport

them to airports or railway stations. This gives them a unique insight into which premises may be vacant for periods of time and therefore possible targets for burglary. For these reasons a serious view should be taken of any conviction involving dishonesty. In general, a period of 3 to 5 years free of conviction should be required before entertaining an application.

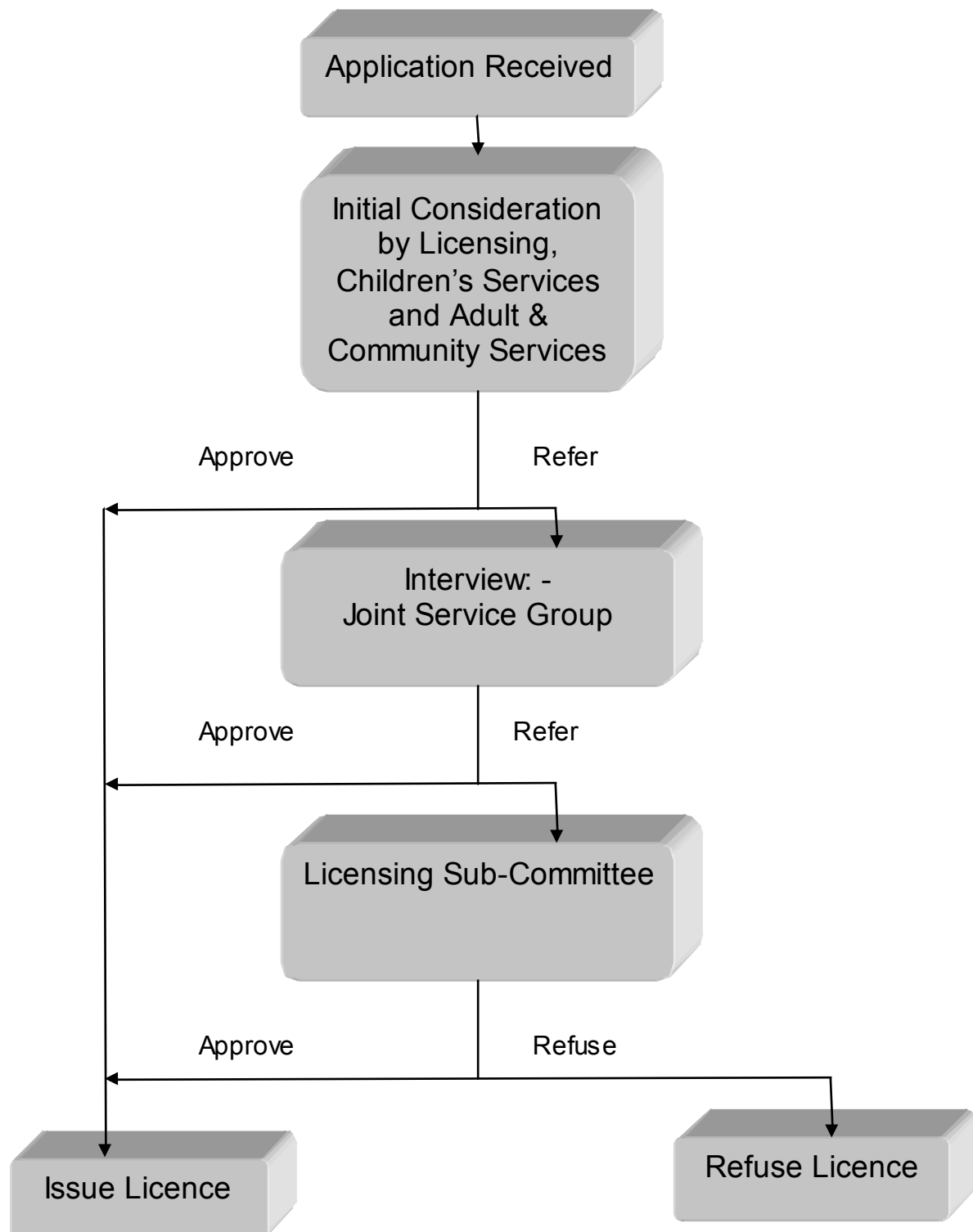
Members may feel that applicants that have such convictions could not be considered as fit and proper to hold a licence as the nature of these offences casts a serious doubt on the applicant's trustworthiness – an attribute that is considered essential when transporting passengers or unaccompanied goods.

APPENDIX A

Offence Category	Details to be provided to committee if offence committed within: -
Minor Traffic Offences e.g. speeding, obstruction etc not posing significant risk	Not to be provided
Major Traffic Offences e.g. dangerous driving, inc. disqualification	All occasions
Drunkenness with motor vehicle	All occasions
Drunkenness not involving motor vehicle	Three Years
Drugs	Seven Years
Indecency	All occasions
Violence	All occasions
Dishonesty	Seven years
Any other serious crime not detailed above	All occasions

Suggested Application Process for Taxi Driver
Licences
(including Private Hire Drivers)

APPENDIX II



Report of: Head of Procurement, Property & Public Protection
and Housing

Subject: REVIEW OF STREET TRADING CONTROLS

1. PURPOSE OF REPORT

- 1.1 To review the current arrangements for the control of street trading in Hartlepool.

2. BACKGROUND

- 2.1 On 2nd March 2005 it was resolved that parts of the Local Government (Miscellaneous Provisions) Act 1982 be adopted to have the effect of requiring permissions to be obtained for street trading in Hartlepool.
- 2.2 Anyone wishing to trade from any street in Hartlepool, except a prohibited street, is required to obtain from the Council a Street Trading Licence or a Street Trading Consent.
- 2.3 The issue of street trading controls first arose in 2005 following a number of complaints about mobile traders at various locations across Hartlepool causing significant problems associated with litter and obstructing the highway. It was for this reason that Members chose not to limit street trading controls to traditional popular trading locations such as Seaton Carew and the Headland but instead to extend it across the town so as to ensure any problems, regardless of their location, could be addressed.
- 2.4 At your meeting on 12th March 2008 Members requested that a review of current street trading controls be carried out following representations from Councillor John Marshall who expressed concern regarding the level of fees charged to mobile traders.
- 2.5 Current fees for street trading consents and licences are detailed in Appendix I. The current fees represent the fees set in 2005 plus a 3% increase in subsequent years. Fees structures are approved by the Adult and Public Health Services Portfolio holder each year.
- 2.6 Applications for street trading permissions fall into two categories – fixed site (such as burger vans) and mobile (such as ice cream vans). The fees are the same for both types of trader.
- 2.7 For applications for fixed sites a number of Council departments and Cleveland Police are consulted to ensure that trading will not pose any risks to public safety or in any other way cause concern. Consultations do not extend to traders in the vicinity but permission will not be granted to any fixed site

trader who proposes to sell goods of a similar nature to any other trader in the area.

- 2.8 No consultations are carried out for mobile traders who are required to stay at any site for no longer than 15 minutes.
- 2.9 Whilst most local authorities have some form of street trading controls, Hartlepool is unusual in that it has designated most of the town as a controlled area and it has a single fee structure for traders – regardless of their trading location or whether they are fixed site or mobile traders.
- 2.10 This contrasts with many other local licensing authorities that have only a small number of controlled streets – usually in popular locations such as town centres or beach fronts.
- 2.11 Consent fees for these locations are extremely expensive when compared to Hartlepool (some are in excess of £8000 per annum compared to £1060 in Hartlepool). However, most Tees Valley authorities do not charge for ice cream vans and other ‘mobile’ traders as they spend little or no time in any controlled area.
- 2.12 Very few prospective applicants have chosen not to continue with their applications because of Hartlepool’s fee structure.
- 2.13 In addition to his concerns regarding the level of fees, Councillor Marshall also requested that the time at which daytime/night time rates applied be reconsidered. Originally, daytime rates applied between 0500 hrs and 1800 hrs and night time rates, which were double those of daytime rates, applied after 1800 hrs.
- 2.14 It had previously been recognised that 1800 hrs was too early for night time rates to apply as a number of traders regularly traded during the day and into the early evening - something that would have required both daytime and night time fees to be paid.
- 2.15 As a result of this, in February 2008 the Adult and Public Health Portfolio holder approved a change for the daytime rates to apply between 0500 hrs and 2100 hrs as part of the review of fees for 2008/9.
- 2.16 Street trading controls in Hartlepool have been in place for three years and, in general, appear to be operating well. However, one trader (an ice cream seller) was prosecuted in 2007 for illegal trading and was fined £200 plus £130 costs. This trader had previously obtained a street trading consent but, despite several reminders, had failed to renew it.

- 2.17 In order to ensure clarity and efficiency in the granting and enforcement of street trading permissions a number of administrative changes are planned for next year. This will include a change to the licensing calendar to allow for an element of forward planning and ensure that all applicants have a fair opportunity to apply for popular trading sites.
- 2.18 Negotiations are also planned with Adult & Community Services and Property Services with a view to streamlining the process of licensing traders who are attending organised Council events such as the Maritime Festival and The Tall Ships Race in 2010.

3. ISSUES

- 3.1 It is recognised that Hartlepool operates a system of street trading controls that is quite unique in that almost all of Hartlepool is a controlled area and, as such, anyone wanting to trade requires permission to do so. This contrasts with most other local authorities whereby street trading controls apply to only specific designated locations.
- 3.2 In some locations, mobile traders represent direct competition to established shops. The impact that any transient trader can have on shops, particularly at very busy times should not be underestimated. Many shops are dependent upon occasional busy days to generate enough revenue to continue in business throughout the year.
- 3.3 If Members believe that the fees currently charged to mobile traders, such as ice cream vans, are too high, any reduction in fees must be either offset against an increase in other fees, such as fixed sites, or financed in another way.
- 3.4 One possible option is to remove the current system of providing refunds for those who surrender consents/licences early. Refunds are calculated on the number of months remaining but are not paid on a pro rata basis. They are not common but can still be in excess of £1000 per annum.
- 3.5 Whilst the total value of refunds paid each year varies greatly it could be used to reduce the fees for 'mobile' traders by a total of £1000 per annum.
- 3.6 There are currently six 'mobile' traders with street trading consents. A reduction in future fees from £1060 per annum to £900 per annum (or pro rata for 6 month consents) would be a significant financial saving for such traders without reducing overall street trading income.
- 3.7 Should Members be minded to recommend the withdrawal of future refunds, it is suggested that it remain for 'exceptional circumstances'. This may be in cases where the trading location is withdrawn through circumstances beyond the consent/licence holder's control such as the Highways Agency closing a lay-by used by a burger van.

- 3.8 Should Members be minded to recommend a change to the current fees structure, the issue would be taken to the Adult and Public Health Services portfolio holder at the next appropriate meeting.

4. RECOMMENDATIONS

- 4.1 That Members consider the current arrangements for issuing street trading consents and licences.
- 4.2 That Members express their support for a reduction in street trading consent and licence fees for 'mobile' traders.
- 4.3 That Members express their support for the withdrawal of future refunds for the early surrender of street trading consents and licences, with the exception of those permissions already granted under such terms, and except where such surrender is in exceptional circumstances.

APPENDIX I

STREET TRADING FEES 2008/9

STREET TRADING

All fees include a £50.00 non-refundable application charge, which will be retained by Hartlepool Borough Council, should an application be refused or withdrawn.

<u>Street Trading Consents</u>	0500 hrs – 2100 hrs (1800 hrs)		2100 hrs – 0500 hrs	
Annual	£1060	(£1030)	£2120	(£2060)
½ Yearly	£636	(£618)	£1272	(£1236)
Monthly	£160	(£155)	£320	(£310)
Weekly	£108	(£105)	£216	(£210)
Daily	£54	(£52)	£108	(£103)
Annual fee for fixed hot food	£1060	(£1030)	£2120	(£2060)
Street Trading Licence				
Weekly	£108			
Daily	£54	(£52)		

Where attending Wednesday, Thursday open market, Farmers Market or Maritime Festival, the above fee will not be charged as it is covered in the existing charges.