



Members of the Licensing Committee –

Councillors R P Lillis (Chairman), H J W Davies (Vice Chairman),
I Aldridge, T Hall, S Y Goss, B Leaker, J Parbrook, R Thomas,
N Thwaites, K H Turner, D J Westcott

16 November 2015

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Dear Councillor

LICENSING COMMITTEE MEETING

Date: Tuesday 24 November 2015
Time: 4.30 pm
Venue: Council Chamber, Council Offices, Williton

Please note that this meeting may be recorded. At the start of the meeting the Chairman will confirm if all or part of the meeting is being recorded.

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Yours sincerely

BRUCE LANG
Proper Officer

RISK SCORING MATRIX

Report writers score risks in reports uses the scoring matrix below

Risk Scoring Matrix

Likelihood	5	Almost Certain	Low (5)	Medium (10)	High (15)	Very High (20)	Very High (25)
	4	Likely	Low (4)	Medium (8)	Medium (12)	High (16)	Very High (20)
	3	Possible	Low (3)	Low (6)	Medium (9)	Medium (12)	High (15)
	2	Unlikely	Low (2)	Low (4)	Low (6)	Medium (8)	Medium (10)
	1	Rare	Low (1)	Low (2)	Low (3)	Low (4)	Low (5)
			1	2	3	4	5
			Negligible	Minor	Moderate	Major	Catastrophic
Impact							

Likelihood of risk occurring	Indicator	Description (chance of occurrence)
1. Very Unlikely	May occur in exceptional circumstances	< 10%
2. Slight	Is unlikely to, but could occur at some time	10 – 25%
3. Feasible	Fairly likely to occur at same time	25 – 50%
4. Likely	Likely to occur within the next 1-2 years, or occurs occasionally	50 – 75%
5. Very Likely	Regular occurrence (daily / weekly / monthly)	> 75%

- Mitigating actions for high ('High' or above) scoring risks are to be reflected in Service Plans, managed by the Group Manager and implemented by Service Lead Officers;
- Lower scoring risks will either be accepted with no mitigating actions or included in work plans with appropriate mitigating actions that are managed by Service Lead Officers.

LICENSING COMMITTEE - AGENDA

24 November at 4.30 pm

Council Chamber, Williton

1. **Apologies for Absence**

2. **Minutes of the meeting held on 21 July 2015**

Minutes of the Meeting of the Committee held on 21 July 2015 – **SEE ATTACHED** – to be confirmed.

3. **Declarations of Interest**

To receive and record any declarations of interest in respect of any matters included the Agenda for consideration at this Meeting.

4. **Public Participation**

The Chairman to advise the Committee of any items on which members of the public have requested to speak and advise those members of the public present of the details of the Council's public participation scheme.

For those members of the public wishing to speak at this meeting there are a few points you might like to note.

A three-minute time limit applies to each speaker and you will be asked to speak before Councillors debate the issue. There will be no further opportunity for comment at a later stage. Your comments should be addressed to the Chairman and any ruling made by the Chair is not open to discussion. If a response is needed it will be given either orally at the meeting or a written reply made within five working days of the meeting.

5. **Licensing Update Report**

To consider Report No. WSC 172/15. Report to keep the Council's statutory committee up to date with current arrangements and statistics relating to the Licensing Service. To be presented by the Councillor Turner. Report Author is Acting Licensing Manager – **SEE ATTACHED**.

6. **Licensing Regime for Hackney Carriage and Private Hire Drivers**

To consider Report No. WSC 173/15. Report to keep the Council's licensing requirements for Hackney Carriage/Private Hire Drivers and Private Hire Operators within West Somerset and the recommendations set out at section 3.1 of the report with regard to the introduction of new policies in respect of out of area applicants and cross-border hiring. To be presented by the Councillor Turner. Report Author is Acting Licensing Manager – **SEE ATTACHED**.

COUNCILLORS ARE REMINDED TO CHECK THEIR POST TRAYS

The Council's Vision:

To enable people to live, work and prosper in West Somerset

The Council's Corporate Priorities:

- Local Democracy:
Securing local democracy and accountability in West Somerset, based in West Somerset, elected by the people of West Somerset and responsible to the people of West Somerset.
- New Nuclear Development at Hinkley Point
Maximising opportunities for West Somerset communities and businesses to benefit from the development whilst protecting local communities and the environment.

The Council's Core Values:

- Integrity
- Fairness
- Respect
- Trust

LEP5 Licensing Update Report

(Licensing Update Report – circulated with the Agenda.)

The report was produced to keep the Council's statutory Committee up to date with current arrangements and statistics relating to the Licensing Service.

The Licensing Manager, Ian Carter introduced the item.

The main points raised during the discussion included:-

- Discussion took place on the frequency of the Licensing checks and visits to premises. It was acknowledged that checks were not done as regularly as they perhaps should be.
- There had not been a history of non-compliance in West Somerset, with most issues being resolved by way of conversation. Audit plans for this were being established through the shared service. Work was being done across both Councils to ensure inspections were being done.
- Members requested evidence to be provided of premises visited by Licensing. It was suggested that future update reports should include figures relating to visits by Licensing.
- Discussions took place relating to how Licensing rules were applied in respect of those who were given the responsibility of operating public houses in instances where a landlord was away.
- 'Best Practice Guidance' was provided to public houses that sought to minimise any potential risks to the public in such instances to ensure appropriate cover was maintained when landlords were absent.
- Members gave full support for additional and permanent Licensing Officer resource in Williton. This would provide a Licensing point of contact at West Somerset as well as alleviating concerns from the public.
- The fees charged for Licensing were discussed. The service could not make a profit and assurance was given that fees were set so that they were beyond challenge. The processes which were undertaken towards the setting of fees were detailed.
- Considered if there had been any increase in in the number of licences issued. Broadly speaking the situation was currently static.
- In terms of the amount of door staff used by premises, it was reported that the Security Industry Authority recommended that the individual operators could determine the level of cover required in consultation with the local Police. Door staffing was not a requirement on all licenses.

RESOLVED that the update report be noted.

The meeting closed at 5.23 pm.

Report Number: WSC 172/15
Presented by: Councillor Keith Turner
Author of the Report: John Rendell, acting Licensing Manager
Contact Details:

Tel. No. Direct Line 01823 356343
Email: j.rendell@tauntondeane.gov.uk

Report to a Meeting of: Licensing Committee
To be Held on: 24 November 2015
Date Entered on Executive Forward Plan
Or Agreement for Urgency Granted: N/A

LICENSING UPDATE REPORT

1. PURPOSE OF REPORT

- 1.1. This report is produced to keep the Council's statutory committee up to date with the work of arrangements and statistics relating to the Licensing Service, as well as any statutory updates that may be required.

2. CONTRIBUTION TO CORPORATE PRIORITIES

- 2.1. An efficient Licensing Service contributes to the Council's vision of enabling people to live, work and prosper in West Somerset, by protecting the public and ensuring a level playing field for businesses through fair and consistent regulation.

3. RECOMMENDATIONS

- 3.1. That the report be noted

4. RISK ASSESSMENT (IF APPLICABLE)

Risk Matrix

Description	Likelihood	Impact	Overall
If the Licensing function were not carried out in an efficient manner, complaints or legal challenges may be brought that could undermine the work being done to support the Council's Corporate Strategy	4	4	16
<i>Demonstrating good governance of the Licensing Function through presentation of current arrangements and statistics relating to the Licensing Service.</i>	3	4	12

The scoring of the risks identified in the above table has been based on the scoring matrix. Each risk has been assessed and scored both before and after the mitigation measures have been actioned.

5. PRESENTATION

5.1. Applications received and licences in force

The numbers of applications received for each of the regimes administered by the Licensing Team between July and September are shown in comparison with those received for the period in the preceding two years at Appendix 1. The numbers of licenses in force and notices given at the end of October 2015 are shown at Appendix 2. As the table in Appendix 1 shows, there has been no markable difference in the numbers of applications that the Licensing service has received.

5.2. Hearings

There have been no meetings of the Licensing Sub Committee between July and September.

5.3. Changes to legislation

On 1 October 2015, section 10 of the Deregulation Act 2015 came into effect, changing the duration of hackney carriage and private hire vehicle driver licences and private hire operator licences.

Prior to the commencement of the Act, licensing authorities could grant Hackney Carriage/Private Hire drivers licences for up to three years in duration. Our current policy permits a one year or three year licence to be issued upon an application for both the grant and renewal of a licence. The change in legislation creates a standard duration of three years upon grant or renewal, unless there are circumstances which would justify a lesser period. It is anticipated that discretion to issue a licence for a lesser period, as described, will not be exercised by officers, but may instead be an option available to a Licensing Panel, where doubts over the fitness and propriety of an applicant might exist.

With regards to private hire operator licences and prior to the commencement of the Act, licensing authorities could grant private hire operator licences for up to five years in duration. Our current licence and fee structure permits applications to be made for one year or three licences, whether for the grant or renewal of a licence. The change in legislation creates a standard duration of five years upon grant or renewal, unless there are circumstances which would justify a lesser period.

With no fee structure in place to facilitate a the grant of a three year driver licence and grant or renewal of a five year private hire operator licence, the Council is not fully compliant at present but work will be undertaken to develop new fees and procedures so that a report can be presented on the matter at a future licensing committee meeting.

5.4. Staffing Levels

At the time of writing this report, work to make the temporary Licensing Officer position permanent is ongoing. A report on the matter is due to be presented at the meeting of Cabinet on 2 December 2015.

6. FINANCIAL/RESOURCE IMPLICATIONS

6.1. None

7. COMMENTS ON BEHALF OF SECTION 151 OFFICER

7.1. None

8. EQUALITY & DIVERSITY IMPLICATIONS

8.1. **Members need to demonstrate that they have consciously thought about the three aims of the Public Sector Equality Duty as part of the decision making process.** The three aims the authority **must** have due regard for are:

- Eliminate discrimination, harassment, victimisation
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

8.2. None

9. CRIME AND DISORDER IMPLICATIONS

9.1 The four licensing objectives under the Licensing Act 2003 are:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

This seems a very reasonable basis on which to found the Licensing Service in general. Having a specific member of staff in place will help to achieve these aims.

10. CONSULTATION IMPLICATIONS

10.1. None

11. ASSET MANAGEMENT IMPLICATIONS

11.1. None

12. ENVIRONMENTAL IMPACT IMPLICATIONS

12.1. None

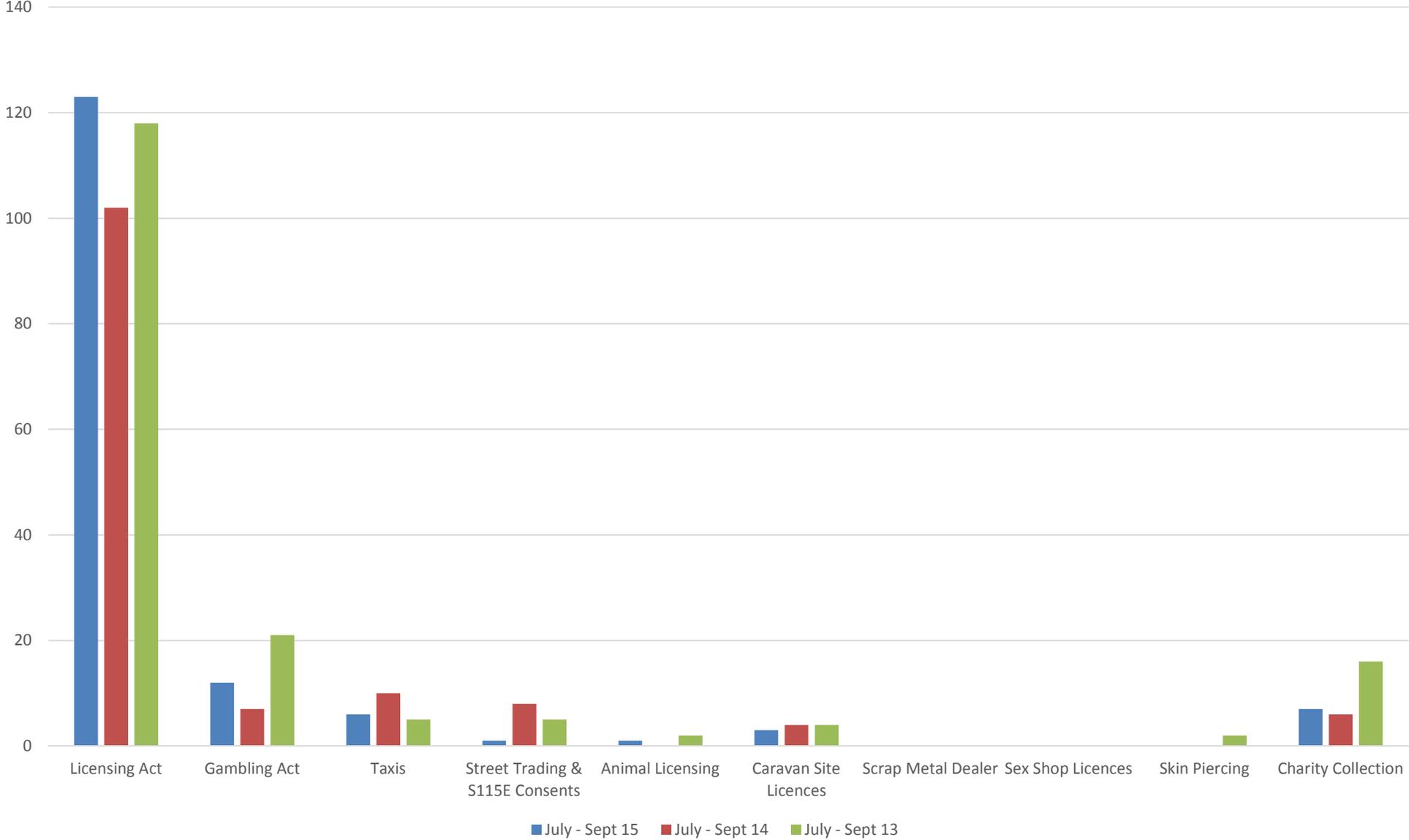
13. HEALTH & WELLBEING

13.1. None

14. LEGAL IMPLICATIONS

14.1. The legal implications are set out within the report.

Applications Received & Notices Given



Licences Issued and Notices Given

These figures show the number of licences in force at 28th October 2015 and the number of notices given since commencement of the releveant legislation

Licensing Act 2003 Premises Licences	271
Licensing Act 2003 Club Premises Certificates	22
Licensing Act 2003 Personal Licences	505
Licensing Act 2003 Temporary Event Notices	2415
Gambling Act 2005 Club Machine Permit	9
Gambling Act 2005 Licensed Premises Gaming Machine Permits	3
Gambling Act 2005 Occasional Use Notices	18
Gambling Act 2005 Premises Licences	0
Gambling Act 2005 Prize Gaming Permits	1
Gambling Act 2005 Society Lotteries (since 01/09/2007)	54
Gambling Act 2005 Temporary Use Notices	0
Gambling Act 2005 Unlicensed Family Entertainment Centres	13
Gambling Act 2005 Notification of 2 or less Gaming Machines	32
Hackney Carriages	41
Private Hire Vehicles	23
Hackney Carriage & Private Hire Drivers	72
Private Hire Operators	18
Street Trading Consents	11
Section 115E (Pavement Café) Permits	N/A
Zoo Licences	3
Pet Shop Licences	1
Dog Breeding Licence	0
Animal Boarding Licence	7
Riding Establishment Licences	5
Dangerous Wild Animal Licences	0
Caravan Site Licences	36
Scrap Metal Dealer licence	2
Sex Shop Licences	0
Skin Piercing Registrations	20
Street Collection Permits	430
House to House Collection Permit	326

Report Number: WSC 173/15
Presented by: Councillor Keith Turner
Author of the Report: John Rendell, acting Licensing Manager
Contact Details:
Tel. No. Direct Line 01823 356343
Email: j.rendell@tauntondeane.gov.uk
Report to a Meeting of: Licensing Committee
To be Held on: 24 November 2015
Date Entered on Executive Forward Plan N/A
Or Agreement for Urgency Granted:

LICENSING REGIME FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS

1. PURPOSE OF REPORT

- 1.1. Members are asked to consider the licensing requirements for Hackney Carriage/Private Hire Drivers and Private Hire Operators within West Somerset and the recommendations set out at section 3.1 of the report with regard to the introduction of new policies in respect of out of area applicants and cross-border hiring.

2. CONTRIBUTION TO CORPORATE PRIORITIES

- 2.1. Safeguarding the public and through the hackney carriage and private hire licensing regime contributes to the Councils vision of enabling people to live, work and prosper in West Somerset.

3. RECOMMENDATIONS

- 3.1. That Members approve the adoption of a new policy such that the Authority will refuse applications made by those persons residing (at the time of submission of their application) outside of the administrative boundaries of the Council, unless the applicant can prove to the satisfaction of the Authority, that they genuinely intend to work or do work entirely or predominately within the district.
- 3.2. That Members approve the adoption of a new policy such that where the Authority believes that a licensed driver is not working entirely or predominately within the district, then it may suspend or revoke that person's Hackney Carriage and Private Hire Vehicle Driver's Licence together with any vehicle licence associated with that individual.

4. **RISK ASSESSMENT (IF APPLICABLE)**

Risk Matrix

Description	Likelihood	Impact	Overall
Failure to ensure public safety and meet the legal and moral obligations the Council has to travelling public	4	4	16
An increase in work demand leading to a subsequent reduction in efficiency of the Licensing Service as a result of enquiries and applications made by out of area applicants from major urban conurbations in the region.	3	4	12
A reduction in licensed out of area drivers that currently work fully or predominantly in West Somerset due to an additional administrative burden.	1	2	2
Failure to ensure the proper safeguarding of children and vulnerable adults through the inability to monitor vehicles and drivers that are licensed by the Council but which do not work fully or predominantly in West Somerset.	4	4	16

The scoring of the risks identified in the above table has been based on the scoring matrix. Each risk has been assessed and scored both before and after the mitigation measures have been actioned.

5. **BACKGROUND INFORMATION**

- 5.1 The overarching aim of taxi licensing is public safety. Through the implementation of its policies the Council as Licensing Authority seeks to ensure that members of the public travel in safety in well maintained vehicles driven by competent drivers, as well as ensuring the provision of a fair and reasonable service for the licensed trade.
- 5.2 Cross border hiring describes a taxi being used for private hire purposes outside of the district in which it has been licensed or when a private hire vehicle picks up a passenger from another district. It is a legal and legitimate activity but has the potential to cause problems with monitoring and supervision of the licensed fleet.
- 5.3 In most circumstances, under the legislation (Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976), a Licensing Authority may only take action against a vehicle or driver that it has licensed and is therefore unable to act, unless a criminal activity has taken place, against vehicles operating within its area that are licensed elsewhere. This leaves the authority powerless to intervene if the driver contravenes any licence condition or provides a poor quality service to passengers.
- 5.4 Other Licensing Authorities in Somerset, including Taunton Deane Borough Council, have noticed, over the last year or so, a marked increase in the number of applications from applicants who reside outside of the district (the majority of which have Bristol residences). These authorities have received evidence from the licensed trade and Bristol City Council, showing vehicles that they have licensed, operating entirely or predominantly away from their administrative areas.
- 5.5 Although not an unlawful activity, there are potentially undesirable consequences of taxis and drivers licensed by the Council operating remotely from it, as the Council has to supervise these drivers and vehicles from a distance and faces difficulty in keeping them under observation.
- 5.6 The most notable case law on this subject was between Newcastle City Council and Berwick Borough Council. Here, the Judge did not find that the granting of licences to people who

intended to operate remotely was unlawful but did conclude that the intention of the licensing system was that “it should operate in such a way that the authority licensing hackney carriages is the authority for the area in which those vehicles are generally used.”

- 5.7 The Licensing One Team have, over the past two years at Taunton Deane Borough, observed Council, a substantial increase in the number of applications and enquiries from applicants who do not reside within the Taunton Deane administrative area. In the absence of a policy to the contrary, those applicants, having been found suitable through the normal licensing regime, were licensed. Evidence then began to come forward, indicating that many of the drivers and vehicles were working entirely or predominately away from the Borough and that some may be involved in illegal plying for hire and have committed other offences under the taxi and private hire legislation.
- 5.8 In order to address this issue, the Taunton Deane licensing committee adopted a new policy whereby, when considering an application for grant or renewal of a Hackney Carriage and Private Hire Vehicle Drivers Licence and applications for Hackney Carriage Vehicle Licences from applicants who reside outside of the Council’s administrative boundaries, the Authority would require such evidence as it reasonably considered appropriate to make an assessment of the intention to work, or proof of operating since the grant of the licence, entirely or predominately within the Taunton Deane administrative area. Since the policy was introduced at the end of August, 21 applications have been withdrawn voluntarily and one application has been rejected (following an interview with the Licensing Manager).
- 5.9 It is the opinion of officers that it is reasonable to expect that people who live outside of the district are more likely to work away from the district and although very few applications have been made to West Somerset Council, from applicants residing outside of district or from the Bristol area, officers feel it is necessary to introduce a new policy, to prevent a similar occurrence in West Somerset and to ensure that the Authority meets its legal and social obligations, particularly in light of the results of an independent enquiry into child sex exploitation (CSE) in Rotherham (where it was shown that taxi and private hire drivers were used to transport victims of CSE) for reasons explained earlier in this report.
- 5.10 It is proposed that, when considering an application for grant or renewal of a Hackney Carriage and Private Hire Vehicle Drivers Licence and applications for Hackney Carriage Vehicle Licences, from applicants who reside outside of the Council’s administrative boundaries, the Authority will require such evidence as it reasonably considers appropriate to make an assessment of the intention to work or proof of operating since the grant of the licence, entirely or predominately within the Council’s administrative area. When considering such evidence, the Authority will have regard to the following:
- i. The residential address of the applicant;
 - ii. Any offer or contract of employment from or with a company or operator based within the district;
 - iii. The monetary value of work that starts and finishes within the district and that which does not;
 - iv. Any activities carried out by the applicant that may influence where they might work;
 - v. Whether they will carry out the role full time or not;
 - vi. Any other information that the Council considers relevant.
- 5.11 Where an applicant supplies insufficient or incomplete evidence, the applicant may be invited to attend an interview with the Licensing Manager and Licensing Officer, where their information will be explored further. The application will be determined by the Licensing Manager.

6. FINANCIAL/RESOURCE IMPLICATIONS

- 6.1. The policy changes recommended within this report may have an impact on the resources of the licensing team, which would have to be recovered through future setting of application fees if this transpires.
- 6.2. these increases, for the reasons set out above, will ensure that genuine applicants retain the opportunity to be licensed, where appropriate, while all reasonable steps are taken to protect the public

7. COMMENTS ON BEHALF OF SECTION 151 OFFICER

- 7.1. None

8. EQUALITY & DIVERSITY IMPLICATIONS

- 8.1. **Members need to demonstrate that they have consciously thought about the three aims of the Public Sector Equality Duty as part of the decision making process.** The three aims the authority **must** have due regard for are:
- Eliminate discrimination, harassment, victimisation
 - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
 - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it
- 8.2. The Licensing One Team have reported that the majority of out of area applicants who have applied to Taunton Deane Borough Council, particularly those residing in the Bristol area, have been of been from black and minority ethnic groups. These types of group would be affected by the proposed policy but not adversely affected and officers believe the proposal is a proportionate response and is essential in order to protect the travelling public here and elsewhere.
- 8.3. The conclusion that these types of group would not be adversely affected is based on the fact that they can apply to the authority within whose administrative boundary they live or other adjacent authorities, before they reach West Somerset. Therefore there is no restraint on those individuals earning a living as a taxi or private hire driver.

9. CRIME AND DISORDER IMPLICATIONS

- 9.11 The introduction of the above mentioned policy would ensure that only those who wish to work fully or predominantly within West Somerset receive a licence and would reduce the likelihood of this authority receiving evidence from other authorities of drivers illegally plying for hire and other offences, as has been the case at neighbouring authorities. The policy would also cover our 'Prevent' duty under the Counter Terrorism and Security Act 2015 and our safeguarding responsibilities by virtue of the ability to monitor vehicles and drivers who work fully or predominantly in the district, as opposed to those which do not.

10. CONSULTATION IMPLICATIONS

- 10.1. Members of the taxi and private hire trade currently licensed within West Somerset have not been consulted on the proposal, as the administrative burden on drivers, which would arise should members resolve to introduce the policy, is anticipated to be minimal. Where appropriate, officers will use local knowledge and historic records to ensure that genuine applications are expedited.

11. ASSET MANAGEMENT IMPLICATIONS

11.1. None

12. ENVIRONMENTAL IMPACT IMPLICATIONS

12.1. None

13. HEALTH & WELLBEING

13.1. None

14. LEGAL IMPLICATIONS

14.1. The legal implications are set out within the report.