

Dear Councillor

CABINET - WEDNESDAY, 23RD FEBRUARY, 2022

I am now able to enclose, for consideration at next Wednesday, 23rd February, 2022 meeting of the Cabinet, the following report that was unavailable when the agenda was printed.

Agenda No Item

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| 9 | Adoption of South Staffordshire District Council's delegated licensing function (Pages 3 - 28)
[To approve the adoption of South Staffordshire District Council's delegated licensing function] |
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If you have any queries about this meeting, please contact the democratic support team:

Tel 01902 550320

Email democratic.services@wolverhampton.gov.uk

Address Democratic Support, Civic Centre, 1st floor, St Peter's Square,
Wolverhampton WV1 1RL

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CITY OF WOLVERHAMPTON COUNCIL	Cabinet 23 February 2022
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Report title	Adoption of South Staffordshire Council's delegated licensing functions	
Decision designation	RED	
Cabinet member with lead responsibility	Councillor Steve Evans City Environment and Climate Change	
Key decision	Yes	
In forward plan	Yes	
Wards affected	All Wards	
Accountable Director	John Roseblade, Director of City Housing and Environment	
Originating service	Licensing	
Accountable employee	Chris Howell Tel Email	Commercial Regulation Manager 01902 554554 Chris.howell@wolverhampton.gov.uk
Report to be/has been considered by	Regulatory Committee Council	19 January 2022 2 March 2022

Recommendations for decision:

The Cabinet recommends that Council:

1. Approve the adoption of the executive licensing functions, as delegated, by South Staffordshire Council subject to the signing of the finalised agreement.
2. Approve the adoption of the non-executive licensing functions, as delegated, by South Staffordshire Council subject to the signing of the finalised agreement.
3. Delegate authority for the signing of the final agreement to the Chief Operating Officer in consultation with the Director of City Housing and Environment.

1.0 Purpose

- 1.1 To update Cabinet on the progress made transferring the licensing function from South Staffordshire District Council (SSDC) to City of Wolverhampton (CWC) and for Cabinet to formally accept the delegated licensing functions subject to the signing of the finalised agreement.

2.0 Background

- 2.1 SSDC have thoroughly investigated the licensing processes and procedures provided by City of Wolverhampton Council. They note that in line with Department of Transport advice, small licensing authorities cannot fund the enforcement necessary to provide a service to the standard provided by City of Wolverhampton Council and should look to partner with other bigger authorities.
- 2.2 SSDC have been open about their financial difficulties in licensing. Over the last 18 months due to the difficult operating climate for the trade, the income has declined. The Council has been struggling to balance income and expenditure on taxi licensing for the last five years. It is recognised that this will increasingly become more difficult with a balance shortfall of £25,000 expected by 2023.
- 2.3 Discussions have been ongoing since 2018, when the idea was first mooted at a meeting to discuss driver and vehicle standards. All work between officers ceased with the onset of Covid-19 and the project has lay dormant for many months. As the situation stabilised, the transfer of functions has been picked up again.
- 2.4 The Council have sought external legal advice on the proposal, including on the delegation of the various functions, which confirms that it is legal. The advice is that Full Council are required to approve non-executive functions and Cabinet are to approve executive functions.
- 2.5 SSDC have undergone a full consultation using CWC's policy on applicants' convictions. This enabled them to mirror all of their policies and guidelines with those of Wolverhampton. A further full consultation exercise was undertaken with their trade group. All SSDC licences will transfer over to CWC conditions of licence on 1 April 2022 subject to signing the final agreement.
- 2.6 On 7 December 2021 SSDC Cabinet delegated the executive functions and on 14 December SSDC Full Council delegated the non-executive functions. Due to Covid restrictions, the meeting took place virtually. It was then completed as an 'Urgent Action Decision' and issued by the Chief Executive.

3.0 Proposal

- 3.1 The proposal is for an agreement whereby City of Wolverhampton Council accept South Staffordshire District Council's delegated licensing function from 1 April 2022. This will be reviewed after three years.

3.2 SSDC will not transfer any staff as part of this agreement and no members of SSDC staff will be made redundant due to this transfer. Existing staff from SSDC shall be redeployed to support their Environmental Health work. CWC will purchase a number of services from SSDC up to the value of £60,000 per year for three years.

3.3 The policies of SSDC will mirror those of City of Wolverhampton Council and SSDC Licensing Committee shall become a consultee for any future proposed changes.

4.0 Evaluation of alternative options

4.1 Option one would be to decline the delegation from SSDC. This would result in no change to the current licensing practices of Wolverhampton.

4.2 Option two is to adopt the delegation as proposed.

5.0 Reasons for decisions

5.1 Licensing welcomes the Government's approach to local authorities joining together their taxi licensing functions. CWC will be the first Council to negotiate this type of transfer and will pave the way for other local authorities to follow.

6.0 Financial implications

6.1 The accounting arrangements for the SSDC transactions will be dealt with in accordance with required licensing legislation and the Code of Practice for Local Authority Accounting, the monitoring of this service will be separate to the Council's own licensing budgets.

6.2 Due to economies of scale many of the necessary functions to deliver this service on behalf of SSDC can be provided within the existing resources of CWC, therefore at minimal additional cost to Wolverhampton. The costs of delivering the licensing services will be apportioned between the two licensing services as appropriate.

6.3 The service has forecast the cost and income for delivery of the SSDC licensing service for the next three years, which is summarised in the table below.

	2022/23	2023/24	2024/25
Room Hire and Training	540	0	0
Administration costs	600	100	100
Production of new licence plates and driver badges	400	390	390
Support Service Costs	2,800	2,800	2,800
Control and Supervision of Vehicles	41,000	41,000	41,000
Total projected expenditure	45,340	44,290	44,290
Less projected Income from SSDC licensing service	(50,500)	(48,500)	(49,500)
Net Total	(5,160)	(4,210)	(5,210)

- 6.4 Actual performance will be monitored on a regular basis and updates provided in quarterly Performance and Budget Monitoring reports to Cabinet.
- 6.5 In addition, it is proposed that up to £60,000 of services will be procured from SSDC per year over the next three years. These services will include activity associated with the delivery of both SSDC and CWC licensing services and costs will be apportioned appropriately to each service.
[SB/07022022/J]

7.0 Legal implications

- 7.1 By virtue of section 101 of the Local Government Act 1972 a local authority may delegate its functions to another local authority. By a decision of its Executive under Regulation 5 of the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2012 and in accordance with their Constitution South Staffordshire District Council (SSDC) have delegated their taxi licensing function to Wolverhampton City Council.
- 7.2 A report was put before the City of Wolverhampton City Council (CWC) Licensing Committee inviting views.
- 7.3 In accordance with the Constitution of CWC, its Executive has the power to agree to accept the Delegation made by SSDC's Executive which then needs to be agreed and or endorsed by WCC's full Council.
- 7.4 Paragraph 1.18 of the Constitution of CWC provides that a function of Full Council is determining whether to accept the delegation of any function from another local authority.
- 7.5 Contractual arrangements detailing how the taxi licensing function of SDCD is to be undertaken by CWC are being finalised.

7.6 The Council will of course need to ensure that any services purchased from South Staffordshire District Council reflect best value for this Council in line with the Local Government Act 1999 and will do so through the contract that is signed with South Staffordshire and through the purchase of specific services
[SH/26012022/A]

8.0 Equalities implications

8.1 All policies and procedures are those of City of Wolverhampton Council and have been subject to equality impact assessments.

9.0 All other implications

9.1 The final agreement will address the issue of TUPE. Both parties acknowledge the exercise of the Delegated Functions is not intended to result in a transfer of any of SS' employees pursuant to TUPE.

10.0 Schedule of background papers

10.1 South Staffordshire District Council:

- Licensing and Regulatory Committee – 16 September 2021.
- Statement of decision by chief executive using urgent action powers – 15 December 2015

11.0 Appendices

11.1 Appendix 1: Urgent Action Decision of South Staffordshire District Council to formally delegate the taxi and private hire licensing functions.

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SOUTH STAFFORDSHIRE COUNCIL

STATEMENT OF DECISION
BY CHIEF EXECUTIVE USING URGENT ACTION POWERS

I propose to make the following decision set out below in accordance with the powers vested in me by Part 3 of the Constitution of the Council approved by the Council pursuant to Section 37 of the Local Government Act, 2000 and in accordance with the Standing Orders of the Council as set out below:

Part 4 – Section 1 – Standing Orders for Meetings

26.0 URGENT ACTION

The Chief Executive, in consultation with the Leader of the Council, relevant Cabinet Member, or the Chairman of the relevant committee, as appropriate, shall authorise any urgent action when it would be in the best interests of the Council to act prior to the appropriate Council or Committee meeting or prior to an executive decision being made; subject to such action being reported to the next meeting of the Council, the Cabinet or the committee.

The decision has been made by me on 15 December 2021

Dave Heywood – Chief Executive

Date: 15 December 2021

PART A – SUMMARY REPORT

1. SUMMARY OF PROPOSALS

1.1 South Staffordshire District Council (SSDC) is the Licensing Authority for Hackney Carriage Drivers and Vehicles and for Private Hire Operators, Drivers and Vehicles.

[NOTE: In this report ‘taxi’ means hackney carriage or private hire unless otherwise stated. The essential difference between Hackney Carriage and Private Hire is that a Hackney Carriage can be hailed in the street whereas a Private Hire vehicle must be pre-booked through an operator].

1.2 The taxi market is undergoing significant change in the same way that Licensing authorities are. This has been further accelerated through the COVID pandemic. The key challenges are:

- App-based booking systems, supported by case law, which make the traditional view of a Private Hire Operator in an office with a phone located within the boundary of the licensing authority outdated.
- Government and the Local Government Association advice and guidance which, supported by case law, encourages local authorities to ensure that all administration and enforcement costs of a licensing system are met by the beneficiaries of the system and not at the expense of the general taxpayer.

- SSDC faces the same financial challenges that all public sector organisations are facing in trying to achieve a balanced budget and financial stability through its Medium-Term Financial Strategy.
 - The need for greater enforcement resources to be devoted to taxi licensing as a result of various investigations into Child Sexual Exploitation; increasing cross-border hire based on Apps e.g. Uber.
 - The COVID pandemic has forced the way we do business with the trade to find on-line rather than face to face solutions to processing applications for licenses. It has also created additional urgency in reducing the financial burdens on both the Council and the taxi trade.
- 1.3 City of Wolverhampton Council (CWC) has embraced and dealt with these changes. The level of process change and investment by CWC, embracing new technology for service delivery and taking into account the new technology used by the Taxi trade, along with a robust approach to compliance and enforcement is impressive.
- 1.4 Members and Officers met with CWC and it was decided to explore the opportunity for joint working.
- 1.5 It was concluded that joint working by way of delegating the taxi licensing function to CWC has several benefits:
- Greater choice
 - for the trade including on-line applications
 - for the trade in terms of garages and medical practitioners
 - Greater public safety
 - through improved enforcement activity
 - through tighter standards
 - Reduced licensing costs for the trade and costs for the Council
- 1.6 This report sets out the business case, benefits and risks and responses to the consultation of the proposal to delegate the Taxi and Private Hire licensing functions to CWC to administer and enforce on behalf of SSDC.
- 1.7 The report considers the issues under 5 sections:
- Financial impacts on the council and the taxi trade (Section A)
 - Public Safety (Section B)
 - Governance (Section C)
 - Risks (Section D)
 - Consultation and Implementation (Section E)

2. Decision of the Chief Executive exercising urgent action powers

That Council:

- 2.1 approves the delegation the Taxi and Private Hire **licensing functions** of South Staffordshire District Council to City of Wolverhampton Council, for an initial period of 3 years in order for the transfer to take place.
- 2.2 It is noted that Cabinet have approved the delegation of Taxi and Private Hire Licensing **executive functions** to City of Wolverhampton Council, for an initial period of 3 years.

3. SUMMARY IMPACT ASSESSMENT

POLICY/COMMUNITY IMPACT	Do these proposals contribute to specific Council Plan objectives?	
	Yes	A Safe and Sustainable District
	Has an Equality Impact Assessment (EqIA) been completed?	
	No	It is not envisaged that delegating the functions will have any equality impacts.
SCRUTINY POWERS APPLICABLE	The Chief Executive has consulted with the Chairman of the Council in respect of the exercise of the urgent action powers.	
KEY DECISION	No	
TARGET COMPLETION/ DELIVERY DATE	End of 2021 for decision. Implementation date to be agreed with City of Wolverhampton Council and subject to the outcome of the consultation process, approval of the Chairman of Licensing and Regulatory Committee and Lead Cabinet Member Regulatory Services.	
FINANCIAL IMPACT	No	The net cost to the Council of delegating the function is nil in the first 3 years. There are significant financial risks to the council and to the taxi and private hire trade if the delegation of the function does not take place. This is covered in detail in the financial section of the report.
LEGAL ISSUES	Yes	The Council officers have had the benefit of external legal advice on the proposal including on the delegation of the various functions which confirms that it is legally possible. Council approves non-executive functions and Cabinet will approve executive functions. The use of urgent action powers is set out in the Council's Constitution and set out above for reference.

OTHER IMPACTS, RISKS & OPPORTUNITIES	Yes	There are increasing risks to the reputation of the Council through lack of proactive enforcement action. There is a financial and reputational risk to law abiding taxi operators if effective enforcement is not carried out. The Councils Taxi and Private Hire Licensing Policy has been reviewed and consulted on and is ready for implementing. The licensing fees review is overdue which represents further reputational, financial and legal risks to the Council.
IMPACT ON SPECIFIC WARDS	No	None

PART B – ADDITIONAL INFORMATION

4. INFORMATION

Section A Financial Impact

The Council

- 4.1 The Council sets its taxi licensing fees to recover the costs of providing the service.
- 4.2 SSDC introduced a new Taxi Licensing Policy in April 2016 implementing longer licensing periods under the Deregulation Act 2015 for Taxi Drivers and Operators.
- 4.3 The overall impact of this was a reduction in income from taxi licensing reducing our anticipated income from £80k pa to £60K pa. Over the last 18 months due to the difficult operating climate for the trade, several operators have ceased trading, and the income has declined further.
- 4.4 The 2020/21 income for taxi licensing was £54,700 and estimates in October expect income this year to be £61,000, but with declines in subsequent years.
- 4.5 The Council has been struggling to balance income and expenditure on Taxi licensing for the last 5 years, and this will increasingly become more difficult with a balance shortfall of £25,000 expected by 2023.

Table 1

	2021/22	2022/23	2023/24	2024/25
Salaries	33,300	33,900	34,600	35,300
Supplies & Services	4,500	4,500	4,500	4,500
Overheads	33,600	34,100	34,600	35,100
Total Expenses	71,400	72,500	73,700	74,900
Less Income	(61,800)	(50,500)	(48,500)	(49,500)
Net Total Expense	9,600	22,000	25,200	25,400

4.6 The variances in expenditure in Table 1 are explained below:

- In 2018/19 staff time allocated to taxi licensing was reduced following the implementation of the revised taxi policy and the extension of licensing periods for Drivers and Operators referred to above.
- The exercise for calculating the cost of providing the service was reviewed at a high level for the purposes of this report which is the estimated figure for 2021/22 and reflects the advice given in the LGA document 'Open for Business' on fee setting and the low level of enforcement activity currently taking place.

4.7 The review of fees to balance taxi licensing income and expenditure takes place every 3 years as part of the Taxi Policy review and is now overdue. The review was put on hold through the COVID pandemic and whilst joint working with CWC was considered.

4.8 The Council is currently subsidising taxi licensing from the General Fund. Reducing costs further is not possible with only the equivalent of 1.0fte spread across 5 posts responsible for taxi licensing with virtually no resources allocated for enforcement.

4.9 If the taxi licensing function is not delegated to CWC there will need to be a significant increase in taxi licensing fees in order to sustain a balance in expenditure and income.

Staffing Costs

4.10 The cost to the council of administering the Licensing Service consists of direct and indirect costs.

4.11 The indirect costs relate to overheads (such as the apportionment of payroll, finance and HR costs) and are not therefore easily reduced in the short term. The direct costs mainly relate to staffing.

4.12 The staffing resources released will be used to focus on other Environmental Health work and reduce the current reliance on agency and temporary staff.

Taxi Licensing Income

4.13 The Council will lose its income stream from taxi licensing fees if we enter into the agreement with CWC.

4.14 For 21/22 this is budgeted at £60k.

4.15 As indirect costs are inflexible in the short term and as it is anticipated that direct costs will be redeployed to support Environmental Health work, then the Council faces a situation where potentially it loses £60K income but keeps all the cost. Staffing will be retained in order to continue to meet statutory targets for the wider environmental health team. Redeployment of resources is crucial to supporting administration and electronic filing systems in the service on a long-term basis.

- 4.16 There are however a number of matters that CWC need to deliver from SSDC premises and using SSDC staff including room hire, training, organising and servicing committee hearings, contract management and reporting.
- 4.17 Facility will be made within the proposed transfer agreement for CWC to purchase services from the Council to the value of approximately £60K per annum for 3 years.
- 4.18 There will therefore be no net cost of the transfer to CWC during the initial three years.

Benefit to CWC

- 4.19 CWC derive a number of benefits through receiving the delegation of taxi licensing, including:
- Investment/economy of scale – the huge investment in systems undertaken by CWC allows them to generate economies of scale not available to a small district council and so additional licences reduce the cost of their overheads without increasing their direct costs.
 - CWC have made the investment in systems and enforcement directly in response to the threat to public safety posed by cross-border hire through the Deregulation Act and the use of App-based booking systems. The transfer assists CWC in consolidating that approach.
 - CWC welcome the Government’s approach to local authorities joining together their taxi licensing functions. SSDC will be the first Council to negotiate this type of transfer and will pave the way for other local authorities to follow.

The Taxi Trade

- 4.20 Every local authority sets its fees and charges differently which makes direct comparison of costs difficult.
- 4.21 The cost to taxi drivers and operators is the cost of the licence and the ancillary services that go with it e.g. garage test, medical test, knowledge test etc.
- 4.22 Appendix 1 is a comparison of the current fees charged by SSDC and CWC.
- 4.23 Any **new** applicant once the delegation has taken place will pay the CWC fees as set out in Appendix 1.
- 4.24 It is proposed that all **existing** SSDC licensed drivers, vehicles and operators will benefit from a transition period where rules will apply to ease the change in administration and any alterations in fees or vehicle age. These will be agreed through a contract.
- 4.25 Appendix 1 contains some examples of how the costs for Operators, Drivers and Vehicles will change.

- 4.26 Drivers, vehicle owners with vehicles under 10 years old and small operators will all benefit immediately and on an on-going basis as a result of the transfer.
- 4.27 **Vehicles over 10 years old** – during the last SSDC Policy review in 2016 the issue of an age limit on vehicles was considered. No age restriction was imposed but the fees were set to reflect the greater number of defects found on older cars and therefore the need for them to undergo 3 tests per annum.
- 4.28 SSDC proposed new policy now to comes in line with CWCs Policy of 12 years old maximum for private hire vehicles and that only vehicles 10 years old or younger may be added to the fleet.
- 4.29 It is proposed that grandfather rights will be granted to any vehicle aged 10 years or over at the time of the transfer for a period of 3 years for a renewal application for the same vehicle or such shorter period up to the point at which the vehicle reaches 15 years of age. It is considered that this is a reasonable amount of time for any business to make adjustments. [NOTE: The details of this have not yet been finalised with CWC so this is to be confirmed].
- 4.30 **Large Operators** – This is the only class of licence that does not benefit financially from the transfer. However, this disbenefit only occurs when the licence is renewed so in most cases this will be a number of years allowing business to make reasonable adjustments. This applies to approximately 10 of our 38 existing operators. Work is currently being undertaken to determine the impact on these businesses. If the delegation of the function to CWC does not take place there will be a review of policy and fees which will almost certainly see a similar split in future fee structures and a substantial increase in fee to reflect enhanced enforcement activity. The larger operators will also benefit from the reduced vehicle and driver fees, balancing out the increase in operator fees. (See comparison in Table 2.)

Section B Public Safety

Taxi Licensing Enforcement

- 4.31 In its response to '*Taxi and Private Hire Licensing: Steps towards a safer and more robust system (report of the parliamentary Task and Finish Group on Taxi and Private Hire Vehicle Licensing) (November 2018)*' the government stated '*The prime reason for regulation of taxis and PHVs is to protect the public*'
- 4.32 The resources of SSDC and its partners in a small rural district council do not lend themselves to proactive enforcement.
- 4.33 Whilst SSDC has robust processes in place to ensure that licences are not issued until all matters in relation to protecting the public are in order, it does not have the resources to carry out proactive enforcement. There is no taxi rank, there are no identifiable town centres, there is no night-time economy. Stop and check operations have occasionally been conducted but these have limited effect. Once one taxi driver sees the location of the operation every taxi driver knows about it.

- 4.34 Approximately 25% of taxis fail their garage inspection tests on such things as tyre tread depth, blown light bulbs etc. With no proactive enforcement taking place a driver knows that they can afford to wait for the next test before checking and changing their tyres.
- 4.35 The reverse is true for CWC where proactive operations are a daily occurrence and extending those operations into SSDC is a simple and cost-effective process.
- 4.36 CWC has committed significant resources to enforcement. There are currently over 60 staff in the licensing team, with further recruitment pending. They have a bank of over 30 officers who undertake compliance operations. This can be added to from other officers in licensing should the need arise.
- 4.37 CWC has a dedicated 'out of area' enforcement team who will enforce the conditions on the licences wherever they operate in the country. CWC has employees who work across the country. They are in the process of setting up a permanent presence in Manchester, working closely with the Police due to growth in that area.
- 4.38 CWC have a specific clause in their Driver conditions that requires the driver to cooperate with any enforcement officer of any local authority. Drivers have been revoked for their refusal to co-operate with reasonable requests of authorised officers in other areas. These revocations have been upheld in the Magistrates court.
- 4.39 CWC monitor their own standards and have recently purchased 3 vehicles for test purchasing in partnership with the Driver Vehicle Standards Agency at garages to ensure compliance with standards. Some failed and these have been put on an improvement programme.
- 4.40 If SSDC were to develop an enforcement strategy requiring additional enforcement activity this would require additional resources and would lead to a further increase in taxi licensing fees.
- 4.41 If the transfer of the function to CWC takes place there will be a significant increase in pro-active operations.
- 4.42 The following enforcement activity will be undertaken by CWC in the SSDC area:
- 12 proactive overt operations per year
 - 2 covert operations per year
- 4.43 In addition CWC will provide vehicle control and supervision operatives (similar to taxi marshals) in support for large events.
- 4.44 CWC also have plans to introduce on-line training as part of their enforcement activity for low level transgressions e.g. not wearing their licence or a door sticker not being on the vehicle. This will be akin to being caught doing 35mph in a 30mph zone where you are given the choice of points/fine or attending a training course. This option is only given once and subsequent discretions are not offered that option.

Criminal Convictions Policy

4.45 In every respect the CWC Policy on criminal convictions and when a licence may/may not be granted is more stringent than the existing SSDC Policy. The proposed SSDC policy which has gone through the consultation process with the trade and interested parties mirrors CWC policy so there would be no differences.

Section C Governance

Legality of the delegation of the function

4.46 Advice has been sought from Counsel via Philip Kolvin QC. The conclusions of his advice are that the proposed transfer is possible and legal under existing legislation. This has been considered in the 'Legal Issues' section of the report.

Agreement

4.47 It is proposed that the exercise of the delegated functions will be set out in an Agreement.

4.48 The agreement is to be finalised however it is expected to include:

- Term – this will be initially for 3 years.
- Delegations – how the delegations will be exercised in practice.
- Financial arrangements – payment to SSDC for use of premises etc.
- Complaint handling.
- Indemnity to SSDC for judicial or legal challenge
- Committee Hearings – to be organised by SSDC with SSDC members and supported by SSDC staff.
- Staffing arrangements – no transfer of staff; provision for ongoing training of officers and involvement in enforcement activity for taxi licensing.
- Confidentiality.
- Freedom of Information.
- GDPR.
- Termination arrangements.
- Dispute resolution.

Adoption of CWC Taxi and Private Hire Licensing Policy and scheme of delegations

4.49 In order for CWC to deliver the taxi licensing function on behalf of SSDC it will be necessary for the Taxi and Private Hire Policies to be aligned. Associated fees and the Officer and member scheme of delegations will be set out within CWC constitution.

Officer and Member Decisions

- 4.50 Appendix 2 shows the differences between CWC and SSDC.
- 4.51 Some decisions which are currently made by Members at SSDC will now be made by officers at CWC. This is primarily around whether or not to grant a licence to an Operator and the revocation of Driver and Vehicle licences. This reflects the tighter standards at CWC with less grey areas around convictions, which was the purpose behind SSDC introducing its convictions panel and referrals to Licensing Sub Committee. In reality, very few referrals are made to Licensing sub-committee at SSDC.

Monitoring and reporting

- 4.52 Quarterly Management Reports will be provided to Officers and Licensing and Regulatory Committee. These will be jointly presented by SSDC and CWC to Licensing and Regulatory Committee.
- 4.53 Licensing and Regulatory Committee will be consulted on any proposed changes to the CWC Taxi and Private Hire Licensing Policy, Taxi and Private Hire Fees and Taxi and Private Hire Operator, Driver and Vehicle conditions.
- 4.54 There will be on-going dialogue between Officers of SSDC and CWC in the management of the agreement and facility has been made within the agreement for Officers to take part in the delivery of administration and enforcement functions in order to maintain their knowledge and skill levels.
- 4.55 There will be one key performance indicator – 100% of CSE complaints to be investigated within 1 day.

Exit Strategy

- 4.56 Taxi Licensing should be a self-funding licensing regime.
- 4.57 If the agreement with CWC ends after 3 years and taxi licensing transfers back into the Council then so does the income from taxi licensing.
- 4.58 Preparation for such an eventuality would be necessary. A new Taxi and Private Hire Licensing Policy would need to be developed and approved, a new fee structure would need to be developed and approved and appropriate staffing arrangements would need to be put in place. Officers will maintain a level of knowledge and that will allow them to transfer the function back to SSDC if necessary.
- 4.59 The Licensing and Regulatory Committee will undertake a formal review of the transfer after 2 years of operation in preparation for the further consideration of extending or otherwise the delegation beyond 3 years.

Legislative changes

- 4.60 In November 2018 the parliamentary Task and Finish Group on Taxi and Private Hire Vehicle Licensing published a report '*Taxi and Private Hire Licensing: Steps towards a safer and more robust system (report of the parliamentary Task and Finish Group on Taxi and Private Hire Vehicle Licensing) (November 2018)*'. The Government responded to the report in February 2019 in a report titled '*Moving Britain Ahead*'.
- 4.61 The recommendations of this report included joint working and collaboration to build capacity and effectiveness, and a government response urging local authorities to ensure that they have efficient and effective procedures in place to minimise the cost to the trade of establishing a robust and well-resourced licensing body.
- 4.62 This has been followed up by Statutory Taxi and Private Hire Vehicle Standards published in July 2020, in which it is recognised that where Government, law enforcement, businesses and the public work together on prevention, this can deliver significant and sustained cuts in certain crimes.
- 4.63 The standards focus on protecting children and vulnerable adults and reference the Casey report which made clear that weak and ineffective arrangements for taxi and private hire vehicle licensing had left the children and public at risk. The standards require checking the suitability of individuals and operators to be licensed. Licensing authorities are now able to request large numbers of status checks on a daily basis and CWC are now undertaking these daily checks.
- 4.64 The standards also introduced joint authorisation and enforcement powers allowing any officer in any local authority to deal with any taxi found in their area. CWC already makes it a condition of its licences that the licence holder must cooperate with any licensing officer in any authority.
- 4.65 There will be a future impact on vehicles not based on age but based on vehicle emissions.
- 4.66 In conclusion therefore the transfer of the taxi licensing function to CWC supports the recent changes to legislation and is in line with the Statutory Taxi and Private Hire Vehicle Standards (July 2020).

Section D Risks

The existing risk of not undertaking the transfer.

- 4.67 The Council reviews its Taxi and Private Hire Licensing Policy and associated fees and charges every 3 years. The Policy should have been reviewed in 2018/19 for implementation from 1st April 2019. The review was put on hold through COVID and pending the investigation of the transfer of the function to Wolverhampton. The policy itself has been reviewed and consulted on, but not implemented until the outcome of joint working with CWC has been determined.

4.68 For the following reasons there would be a significant increase in the license fees charged to the taxi trade as a result of the next review:

- Based on current expenditure the Council will not meet the costs of the Taxi Licensing regime to an estimated gap in excess of £25,000 in 23/24 and 24/25. Recovery of these costs would result in significant fee increase to the trade.
- There are many elements of taxi Licensing that the Council does not charge for now but would do in the future e.g. training.
- The level of proactive enforcement needs to be increased. The staffing costs of this would need to be factored in.
- The level of customer service provided would need to be addressed. It is a regular complaint of taxi drivers that staff are unavailable to them when they demand. Either through additional staffing or through customer services this will result in an increase in costs.
- There have been significant changes in what can be charged for taxi licensing through recent case law. A Council can now charge for the administration, implementation and compliance for a licence AND can charge for its enforcement costs associated with enforcement against unlicensed activity.

Reputational risks to the Council and the Trade

4.69 Fundamental to the Councils Enforcement Policy is treating businesses fairly. This means that those businesses who do comply with the law should not be financially disadvantaged through ineffective enforcement against those who do not. If enforcement action against those not complying with the law is not improved there is a risk of law-abiding businesses being disadvantaged.

4.70 There have been a number of high-profile scandals around Child Sexual Exploitation which have been associated with the Taxi trade. Effective enforcement is essential for both the trade and the Council to maintain their reputation for protecting public safety.

Section E Consultation and Implementation

4.71 The proposals represent a change in the service provided by the Council in exercising its functions and represents a change in the Policy that taxi drivers and private hire operators and drivers will operate under.

4.72 In line with the Council's values of Trust, Transparency and Listening To People a consultation exercise has been undertaken on the proposals including two consultation meetings. These were hosted at different times during the day with one held virtually to give greatest opportunity for attendance.

4.73 A package of benefits for the trade during the transition was set out at the meetings including

- drivers receiving a new 3-year licence subject to training and appropriate checks, whatever length of time remains on their current licence.

- All vehicles being replaced with a new 12-month licence, subject to MOT.
- Any Operator with less than one year remaining on their licence will transfer with a whole year. All other operators to transfer with their current licence timescale.

4.74 Over 20 representatives from the trade attended the consultation meetings, and we received 6 written responses. The responses had general themes relating to financial impact, praise for SSDC administration, and changes in signage and driver requirements.

4.75 **Financial impact** – concern was expressed in relation to an expected increase in fees at CWC. As stated however, fees at SSDC would increase significantly in a fee review, and a comparison below of a selection of fees illustrates that most would reduce at CWC except for large operators. This increase is balanced by the reduction in vehicle fees. Table 2 reflects the estimated fee increase at SSDC if the function were to remain at SSDC.

Table 2

Licence type	South Staffordshire – current and predicted increase	Wolverhampton	Difference
Driver three-year renewal	£191 +£100 = £291	£179	- £112
Vehicle between 5 and 10 years	£409 +£62 = £471	£170	-£301
Operator Small renewal	£153 +£200 = £353	£150	-£203
Operator Large renewal	£153 +£500 = £653	£785	+£132

4.76 **Requirements for signage and restrictions on drivers moving between operators** - CWC require permanent signage on vehicles, no roof signage and restrictions on drivers moving between operators. It is acknowledged that this may be an inconvenience to the trade, however CWC have stated they stand behind their one operator and permanent signage policy. Both are in place for reasons of public safety as a customer needs to be sure the vehicle they are getting into is the licensed vehicle that they booked. Similarly roof signs are prohibited to create a greater distinction between private hire vehicles and hackney carriages, reducing the likelihood of the public asking for a journey without a booking, and therefore uninsured. It also reduces the cost to the driver and prevents issues with them being stolen or falling off whilst driving.

4.77 These requirements would be considered for implementation in SSDC Policy in review if the function were maintained at SSDC.

4.78 **Service quality** - The trade were very complimentary of the service provided by SSDC, and highlighted worries that the service may not be as personal or timely at CWC. At SSDC with a very small team sickness or holiday absences increase the risk of gaps in provision to the trade, and we have received complaints about availability of appointments.

4.79 Ability to apply for licences online 24 hours per day should give the trade more flexibility and ease of access to the service, and this would be monitored within the contract agreement.

5. IMPACT ASSESSMENT – ADDITIONAL INFORMATION

None

6. PREVIOUS MINUTES

None

7. BACKGROUND PAPERS

None

APPENDIX 1

Comparison of SSDC and CWC Taxi Licensing Fees at 1st December 2021

	SSDC	CWC	Difference
Operator's Licence (more than 4 cars)			
New/1 Year	192	1077	+885
Renewal/1 Year	153	785	+632
Renewal/5Year	525	3140	+2615
Operator's Licence (less than 4 cars)			
New/1 Year	192	1077	+885
Renewal/1 Year	153	150	-3
Renewal/5Year	525	500	-25
Drivers Licence			
New/3 years	PR AND HC 327 (incl DBS (58) and DVLA check) FREE Training 55 Medical Total: 382	120 application Total: 120	-262
Renewal/3 years	HC AND PH 191 (if signed up to the DBS update service). OR 232 (if DBS required) Policy does not require re-training £55 medical Total 246 OR 287	HC OR PH 100 (application) 79.49 (DBS and DVLA) Medical (Medical required only every 5 years) Total 179.49	-66.51 or -107.51
Vehicle Licence			
Private Hire			
Under 5 years old	171 48 garage test Total 219	135 MOT 35 Total 170	-49
Between 5 and 10	313 96 garage test x 2	135 35 MOT	

	Total 409	Total 170	-239
Over 10 years old	462 144 garage test x 3 Total 606	299 70 MOTx 2 Total 369	 -237
Over 12 years old	As above	NOT ALLOWED	
Hackney Carriage			
Under 5 years old	171 48 garage test Total 219	135 35 MOT Total 170	 -49
Between 5 and 10	313 96 garage test x 2 Total 409	135 35 MOT Total 170	 -239
Between 10 and 16 years old	462 144 garage test x 3 Total 606	299 70 MOT x 2 Total 369	 -237

APPENDIX 2

Comparison of Delegations between SSDC and CWC

Matter	SSDC	CWC	Comments
Taxi and Private Hire Licensing Policy	Approved by Licensing and Regulatory Committee	Approved by Licensing Committee	Any changes to CWCs Taxi and Private Hire Licensing Policy will be brought to SSDC Licensing and Regulatory Committee for consultation.
Fees and Charges	Approved by Assistant Director (Licensing Committee and Cabinet consulted on proposals).	Approved by Licensing Committee	Any changes to CWCs Taxi and Private Hire Fees and charges will be brought to SSDC Licensing and Regulatory Committee for consultation.
Applications/renewals for Drivers licence	If the application is within Policy approval is delegated to the Licensing Officer. If the application is outside the Policy it is referred to the convictions Panel (Environmental Health Manager, AD Legal, Chair Licensing) or straight to Licensing Sub committee	If the application is within Policy the Licensing Officer determines the application. If the application is outside the Policy the Section Leader/Service Manager determine the application.	
Applications/renewals for vehicle licence	As above	As above	
Applications for Operators Licence	Decision made by Licensing Sub committee	If the application is within Policy, it is determined by the Licensing Officer. If it is	

		<p>outside Policy it is determined by the Section Leader/Service Manager.</p> <p>In some cases, it may be referred to Licensing Sub-Committee.</p>	
Renewal of Operators Licence	<p>If the application is within Policy approval is delegated to the Licensing Officer.</p> <p>If the application is outside the Policy it is referred to the convictions Panel (environmental Health Manager, AD Legal, Chair Licensing) or straight to Licensing Sub committee</p>	<p>If the application is within Policy, it is determined by the Licensing Officer. If it is outside Policy it is determined by the Section Leader/Service Manager.</p> <p>In some cases, it may be referred to Licensing Sub-Committee.</p>	
Revocation of any licence	Licensing sub committee	<p>Revocation of Driver and Vehicle licences by the Section Leader/Team Manager</p> <p>Revocation of an Operator's licence to Licensing sub-committee.</p>	
Suspension of any licence	Environmental Health Manager or Licensing Sub Committee	<p>Section Leader/Team Manager</p> <p>Operator suspensions to Licensing sub-committee.</p>	
Suspension of Vehicle Licence	Enforcement Officer/Licensing Officer	Licensing officer	
Range of sanctions for breach of condition/legislation (as set out in the policy)	Environmental Health Manager or Licensing Sub committee	Section Leader/Team Manager	

Subject to Committee Approval of Additional Conditions – Add Conditions Private Hire Vehicle Operators Licence		Licensing Manager in consultation with Chair, Vice-Chair of Licensing Committee	
Subject to Committee Approval – Additional Hackney Carriage/Private Hire Vehicle Driver’s Licence Condition		Licensing Manager in consultation with Chair, Vice-Chair of Licensing Committee	

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