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**Report to:** Licensing & Regulatory Committee **Date of Meeting:** 24<sup>th</sup> September 2012

**Subject:** Licensing Motorcycles as Private Hire Vehicles

**Report of:** Director of Built Environment

**Wards Affected:** All

**Is this a Key Decision?** No

**Is it included in the Forward Plan?**  
No

**Exempt/Confidential** No

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### **Purpose**

To advise Members of the proposed changes to the Hackney Carriage, Private Hire and Omnibus Licensing Scheme in relation to Motorcycles

### **Recommendation(s)**

That Members:

- i) Note the content of this Report; and
- ii) Approve the changes detailed in paragraphs 3.2, 3.3, 3.4, 3.5 and 3.6 to Sefton Council's licensing scheme.

### **How does the decision contribute to the Council's Corporate Objectives?**

	<b><u>Corporate Objective</u></b>	<b><u>Positive Impact</u></b>	<b><u>Neutral Impact</u></b>	<b><u>Negative Impact</u></b>
1	Creating a Learning Community		√	
2	Jobs and Prosperity	√		
3	Environmental Sustainability		√	
4	Health and Well-Being		√	
5	Children and Young People		√	
6	Creating Safe Communities	√		
7	Creating Inclusive Communities	√		
8	Improving the Quality of Council Services and Strengthening Local Democracy		√	

**Reasons for the Recommendation:**

To allow Members to determine Council policy

**What will it cost and how will it be financed?**

**(A) Revenue Costs**

None.

**(B) Capital Costs**

None.

**Implications:**

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

<b>Legal</b>	The Head of Corporate Legal Services (LD1080/12) has been consulted and has no comments to add.
<b>Finance</b>	The Head of Finance and ICT (FD1758/12) has been consulted and has no comments to add as there are no financial consequences as a direct result of this report
<b>Human Resources</b>	None
<b>Equality</b>	
1. No Equality Implication	<input checked="" type="checkbox"/>
2. Equality Implications identified and mitigated	<input type="checkbox"/>
3. Equality Implication identified and risk remains	<input type="checkbox"/>

**Impact on Service Delivery:**

None

**What consultations have taken place on the proposals and when?**

- Hackney Carriage & Private Hire Joint Trades Working Group

**Are there any other options available for consideration?**

Not to adopt the proposed changes

**Implementation Date for the Decision**

Immediately following the meeting.

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### **Background Papers:**

- Local Government (Miscellaneous Provisions) Act 1976
- Hackney Carriage, Private Hire and Omnibus Licensing Scheme Handbook (Version 1.1)
- Department for Transport – “*Licensing Motorcycles as Private Hire Vehicles*” – A guidance note from the Department for Transport July 2012

## **1. Background**

- 1.1 The Local Government (Miscellaneous Provisions) Act 1976 (The Act), allows a council to grant a private hire vehicle licence if it is satisfied that the vehicle is:
    - Suitable in type, size and design for use as a private hire vehicle;
    - Not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;
    - In a suitable mechanical condition;
    - Safe;
    - Comfortable; and
    - That there is in force in relation to the use of the vehicle a policy of insurance or such security as complies with the requirements of the Road Traffic Acts.
  - 1.2 In addition, The Act only permits a Council to grant a hackney carriage or private hire drivers licence if the applicant is considered as fit and proper and providing a full DVLA or EEC driving licence has been held for a minimum period of one year.
  - 1.3 The Council’s Licensing pre-requisites and conditions are published in the *Sefton Metropolitan Borough Council Hackney Carriage, Private Hire and Omnibus Licensing Scheme Handbook Version 1.1 as amended*, (The Handbook).
  - 1.4 The current licensing policy does permit the issue of licences to motorcycles subject to one pre-requisite, that “Any motor vehicle / cycle with a maximum seating capacity of 1 passenger plus driver must have sufficient hand grips to secure the passenger safely at all times”.
  - 1.5 Since 2008, Sefton Council has received only one licence application with respect to a motorcycle. That licence was issued on 23<sup>rd</sup> June 2009 to a Harley Davidson “Fatboy” 1584cc motorcycle. The licence was not renewed on expiry and no further applications have been received.
- ## **2. “Licensing Motorcycles as Private Hire Vehicles” – A guidance note from the Department for Transport July 2012**

- 2.1 The Department For Transport (DfT) has published guidance to assist licensing authorities who are considering the issue of how to licence motorcycles as private hire vehicles.
- 2.2 In drawing up the guidance the DfT considered that there is a balance to be struck between the flexibility provided by motorcycle private hire vehicles and the safety risks associated with such vehicles. The DfT was also mindful of the important judgement in the case of Leeds City Council v Chauffeur Bikes Ltd, where the High Court held that a motorcycle could be in a safe condition for a motorcycle but it could still, for safety reasons, be judged to be unsuitable in type, size or design for use as a private hire vehicle. On that basis, the Court decided that the motorcycle in question could rightly be held to be unsuitable and unsafe for private hire use.
- 2.3 The DfT forms the opinion that this case does not automatically rule out the licensing of motorcycles as private hire vehicles because it is the nature of this sort of niche market that passengers will weigh up the risks involved and act accordingly. Many people would never choose to use motorcycle private hire vehicles because of the risks they perceive whereas others regard riding pillion as a convenient and practical form of transport.
- 2.4 The DfT's key point is that the risks associated with riding as a pillion passenger on a motorcycle are not sufficiently high as to provide guidance which rules them out of the licensing system altogether.
- 2.5 A copy of the DfT guidance is attached as Annex 1 to this report.

### **3. Changes to Sefton Council's Hackney Carriage, Private Hire & Omnibus Licensing Scheme**

- 3.1 In order to follow the guidance set out by the DfT it is necessary for the Council to amend its licensing pre-requisites and conditions.
- 3.2 Pre-requisites for the issue of a motorcycle private hire vehicle licence:
  - a) Motorcycles must be approved for road use and comply with the current provisions of the Road Vehicles (Construction and Use) Regulations as amended and the Vehicle Lighting Regulations as amended;
  - b) The motorcycle must have a minimum engine size of 750cc;
  - c) Passengers must not hold any luggage and therefore a minimum of two panniers must be securely fitted and any such fitments must not exceed any manufacturer's loading instructions;
  - d) Standard footplates must be fitted for use by pillion passengers;
  - e) The vehicle must have hire and reward insurance and additional fittings or vehicle modifications must be declared and comply with motorcycle and components' manufacturers recommendations for such additional equipment; and
  - f) Anti-lock brakes (ABS) must be fitted.

### 3.3 Pre-requisites for the issue of a motorcycle private hire rider's licence:

- a) All motorcycle private hire drivers (riders) must obtain, as a minimum, the Institute of Advanced Motorist or The Royal Society for the Prevention of Accidents (RoSPA) advanced rider schemes or another course which is demonstrably equivalent or superior before being licensed;
- b) All riders must hold a current valid full motorcycle driving licence issued by the DVLA for the type of vehicle being used and have a minimum of 5 years experience of riding motorcycles, after the issue of a full licence.
- c) All riders must be able to communicate with passengers in English. This is particularly important with respect to the communication of safety instructions.

### 3.4 Licensing Conditions attached to motorcycle private hire vehicle licence:

- a) The vehicle must be operated in accordance with the manufacturer's specifications in all respects;
- b) Motorcycles will only be granted a maximum 6 months licence subject to a satisfactory compliance test;
- c) The display of the disc and any permitted signage must not interfere with the safety or operation of the vehicle;
- d) The vehicle should not be loaded beyond the manufacturer's recommendations;
- e) Luggage must be made secure so as not to affect the stability of the vehicle or the visibility of the driver;
- f) Luggage must not be carried by passengers; and
- g) The vehicle should be able to accelerate and maintain a road speed appropriate to the traffic conditions in which it operates.

### 3.5 Licensing Conditions attached to motorcycle private hire driver licences:

- a) The driver and the passenger must comply with the requirement to wear a safety helmet, the helmet(s) must satisfy the safety requirements in force at the time and properly fit the individual user and be securely fastened;
- b) The driver should wear protective clothing to guard in the event of an accident;
- c) The driver should also offer a passenger protective clothing, the minimum being gloves, a jacket and trousers. All should be CE marked.

- d) The driver and passenger should be linked through the helmets via a driver / pillion intercom system. The driver should instruct the passenger on how to use the system.
- e) The driver should, at the point of pick-up determine whether a passenger is experienced on a motorcycle. The driver should remind pillion passengers that they have chosen to accept some risk and their co-operation is essential to the safety of both. The driver should refuse to carry a passenger who can not be carried safely;
- f) If the pillion passenger cannot reach the footrests, travel should not be allowed to occur; and
- g) The driver should ride safely at all times giving due regard to the safety of his / her passenger, environmental factors, traffic conditions and other road users.

### 3.6 Licensing Conditions attached to motorcycle private hire operator licences:

- a) The operator's website (if any) should display an image of the private hire operator's licence, and the operator's should provide a copy of the licence to passengers on request;
- b) Operator's must indicate how they propose to meet the requirement for drivers on their circuit to ensure that passengers have properly fitting and secured helmets and adequate protective clothing, including gloves, jacket and trousers;
- c) Operators must advise passengers, at the time of booking, that they should wear sturdy boots which cover their ankles and they should alert the hirer to maximum luggage dimensions and weights;
- d) Operators must provide a written statement to the Council setting out how they intend to assess any riders who want to join their operation;
- e) If helmets are to be shared between drivers and passengers, operators must indicate how they will ensure adequate hygiene and fitment between users;
- f) Operators must implement and ensure compliance with a health and safety policy;
- g) Operators should ensure that suitable maintenance plans are in place for motorcycles on their circuits and they should hold service records for those vehicles in accordance with manufacturers recommended service plans;
- h) If the pillion passenger cannot reach the footrests, travel should not be allowed to occur; and
- i) Operators should not accept bookings which involve carrying a passenger who is under 16 years of age.

#### **4. Handbook Consolidation**

- 4.1 It is intended to present the revised handbook for consideration at the Licensing and Regulatory Committee Spokespersons with Representatives of the Hackney Carriage and Private Hire Trades Meeting on 22<sup>nd</sup> January 2013.
- 4.2 The revised handbook will be presented for adoption by the Licensing & Regulatory Committee on 11<sup>th</sup> March 2013.