

9 October 2018

Committee	Licensing
Date	Thursday, 18 October 2018
Time of Meeting	2:30 pm
Venue	Severn

ALL MEMBERS OF THE COMMITTEE ARE REQUESTED TO ATTEND

Agenda

1. ANNOUNCEMENTS

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the visitors' car park at the front of the building and await further instructions (during office hours staff should proceed to their usual assembly point; outside of office hours proceed to the visitors' car park). Please do not re-enter the building unless instructed to do so.

In the event of a fire any person with a disability should be assisted in leaving the building.

2. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

To receive apologies for absence and advise of any substitutions.

3. DECLARATIONS OF INTEREST

Pursuant to the adoption by the Council on 26 June 2012 of the Tewkesbury Borough Council Code of Conduct, effective from 1 July 2012, as set out in Minute No. CL.34, Members are invited to declare any interest they may have in the business set out on the Agenda to which the approved Code applies.



	Item	Page(s)
4.	MINUTES To approve the Minutes of the Licensing Committee meeting held on 14 June 2018 and the Licensing Sub-Committee (Licensing Act 2003 and Gambling Act 2005) meeting held on 19 June 2018.	1 - 20
5.	REVIEW OF HACKNEY CARRIAGE (TAXI) AND PRIVATE HIRE POLICY To agree to establish a Licensing Working Group to review the Hackney Carriage (Taxi) and Private Hire Policy and to approve the proposed Terms of Reference.	21 - 64
6.	REVIEW OF STREET TRADING POLICY To approve the draft revised Street Trading Policy for public consultation, which includes an amendment to require an enhanced Disclosure and Barring Service check as a pre-requisite to obtaining a street trading licence, as set out at Appendix 3.	65 - 99
7.	LICENSING GENERAL UPDATE To consider the updates in respect of the changes to the Houses in Multiple Occupation Regulatory Regime; and implementation of the Animal Welfare Regulations 2018.	100 - 102
8.	LICENSING AUDIT ACTION PLAN To consider progress made against the Licensing Audit Action Plan.	103 - 114

<p style="text-align: center;">DATE OF NEXT MEETING THURSDAY, 14 FEBRUARY 2019 COUNCILLORS CONSTITUTING COMMITTEE</p> <p>Councillors: K J Berry, G F Blackwell, G J Bocking, J E Day, A J Evans, R Furolo, R E Garnham (Chair), P A Godwin, J Greening (Vice-Chair), R M Hatton, A Hollaway, A S Reece, H A E Turbyfield, M J Williams and P N Workman</p>

Substitution Arrangements

The Council has a substitution procedure and any substitutions will be announced at the beginning of the meeting.

Recording of Meetings

In accordance with the Openness of Local Government Bodies Regulations 2014, please be aware that the proceedings of this meeting may be recorded and this may include recording of persons seated in the public gallery or speaking at the meeting. Please notify the Democratic Services Officer if you have any objections to this practice and the Chair will take reasonable steps to ensure that any request not to be recorded is complied with.

Any recording must take place in such a way as to ensure that the view of Councillors, Officers, the public and press is not obstructed. The use of flash photography and/or additional lighting will not be allowed unless this has been discussed and agreed in advance of the meeting.

TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Licensing Committee held at the Council Offices,
Gloucester Road, Tewkesbury on Thursday, 14 June 2018 commencing
at 2:30 pm**

Present:

Chair

Councillor R E Garnham

and Councillors:

K J Berry, G J Bocking, J E Day, A J Evans, R Furolo, R M Hatton, A Hollaway, A S Reece,
H A E Turbyfield and M J Williams

LIC.3 ANNOUNCEMENTS

- 3.1 The evacuation procedure, as noted on the Agenda, was taken as read.

LIC.4 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

- 4.1 Apologies for absence were received from Councillors G F Blackwell, J M Greening (Vice-Chair), P A Godwin and P N Workman. There were no substitutions for the meeting.

LIC.5 DECLARATIONS OF INTEREST

- 5.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.
- 5.2 There were no declarations made on this occasion.

LIC.6 MINUTES

- 6.1 The Chair drew attention to Minute No. LIC.14 of the meeting held on 8 February 2018 in respect of the Licensing Audit Action Plan and he sought an update on progress against that plan. The Environmental Health Manager explained that the majority of issues raised during the audit were administrative and a lot of these had been resolved, for example, Officers had reviewed how they were using the Uniform software system and put in place measures to ensure that data was inputted accurately. In terms of the action to carry out risk assessments of licensed premises, Members were advised that it was intended to train an Officer to do these assessments when carrying out food inspections; unfortunately, not as much progress had been made as anticipated due to resource issues following a Licensing Officer leaving the authority. Notwithstanding this, assurance was provided that there were no high-risk premises within Tewkesbury Borough. He went on to advise that the safeguarding training for hackney carriage and private hire drivers had been well attended; some drivers had already been trained so for them it was a case of obtaining that evidence. For drivers who had not responded to the request to attend the statutory training, it was intended to run "mop-up"

sessions with Cheltenham Borough and Gloucester City Councils which both offered ongoing training courses. It would be necessary to make a judgement on the point at which drivers who did not attend training were in breach of the conditions of their licence. A Member was of the view that drivers should not be granted a licence until they had attended training, as she understood was the case at other authorities. In response, the Environmental Health Manager advised that the training had been held during April and May and licences had been granted throughout that period; the policy stated that training must be completed within a certain number of months following the grant of a licence and this would be strictly adhered to now the bulk of existing drivers had been trained. Members were advised that a report on progress against the action plan would be provided at the next meeting of the Licensing Committee.

- 6.2 The Minutes of the meeting held on 8 February and 15 May 2018, copies of which had been circulated, were approved as correct records and signed by the Chair.

LIC.7 REVIEW OF HACKNEY CARRIAGE TARIFF

- 7.1 Attention was drawn to the report of the Environmental Health Manager, circulated at Pages No. 5-9, which asked Members to approve the renewal of the current hackney carriage tariff until 31 July 2019.
- 7.2 The Chair indicated that there was a typographical error at Page No. 7, Paragraph 5.1 of the report, which stated that all licensed proprietors had been contacted in May 2016 inviting them to make suggestions to amend the current hackney carriage tariff and confirmation was provided that this should read May **2018**. The Environmental Health Manager advised that the hackney carriage tariff was reviewed on an annual basis taking into account the economic climate and any comments received during the consultation with licensed proprietors. Members were informed that economic conditions were similar to when the tariff was last reviewed in June 2017 - although it was recognised there had been a recent spike in oil prices - and licensed proprietors were of the view that there was no need for an increase at this time. As such, it was recommended that the current hackney carriage tariff be approved until 31 July 2019.
- 7.3 With regard to the rising cost of oil, a Member indicated that a similar thing had happened a few years ago and, at that time, Cheltenham Borough Council had introduced an emergency fuel charge which was added to the metre at the start of the journey. This additional charge had remained in place whilst fuel prices stayed high. She was concerned that fuel costs had already started to rise and she suggested it might be beneficial to approve a similar emergency fuel charge which could be introduced to ensure hackney carriage drivers in Tewkesbury Borough were not adversely affected. Another Member was of the view that further research should be undertaken to establish whether rising costs were a problem across the county rather than being isolated to a few individual petrol stations. The Chair considered that it would be appropriate to revisit this if a problem were to arise and the Legal Adviser confirmed that this could be dealt with at a special Licensing Committee meeting if necessary. The Head of Community Services indicated that the situation would be monitored over the coming months and, if fuel costs continued to increase, a report could be brought back to the next Licensing Committee meeting. In the interim, Officers would speak to colleagues at Cheltenham Borough Council about the emergency fuel charge that had previously been introduced.

- 7.4 A Member drew attention to the current tariff, attached at Appendix 1 to the report, and pointed out that Rate 1 should be amended to read: 'Rate 1 – for hiring between 7am and 11pm (not **including** Sundays **and Public Holidays**)'. In addition, Rate 2 should be amended to read: 'Rate 2 – for hiring between 11pm and 7am (**not** including Sundays and Public Holidays)'. As it stood, the two rates were inconsistent, and Rate 2 could be interpreted as being applicable at any time. The Environmental Health Manager undertook to consider the rationale behind the different rates and to make any minor changes to the wording in consultation with the Chair. It was subsequently

RESOLVED That the renewal of the current hackney carriage tariff until 31 July 2019 be **APPROVED**, subject to minor amendments to the wording in respect of the rates in consultation with the Chair, if appropriate.

LIC.8 LICENSING GENERAL UPDATE

- 8.1 Attention was drawn to the report of the Environmental Health Manager, circulated at Pages No. 10-13, which provided an update on current licensing work being carried out by Community Services. Members were asked to consider the progress that had been made regarding the reviews of existing licensing policies and recent changes to licensing legislation that was likely to have a significant impact on Council resources.
- 8.2 The Head of Community Services explained that there had been a number of temporary officers within the Licensing department since the Licensing and Systems Team Leader had left the authority in 2017 and he was pleased to report that a Senior Licensing Officer post was included in the new structure for Community Services which would be taken to the Executive Committee in July. From his point of view, it was important to have a permanent dedicated post for licensing as this was key to ensuring that policies remained relevant and consistent.
- 8.3 The Environmental Health Manager advised that it had been intended to bring a draft review of the Hackney Carriage and Private Hire Policy to this Committee for approval, prior to public consultation. The various policies in place at local authorities across the county had been considered and Cheltenham Borough and Gloucester City Councils had subsequently raised concerns about the disparities between their policies and Tewkesbury Borough Council's policy. He indicated that a lot of taxis licensed in Tewkesbury Borough were operating in Cheltenham and worked to slightly different standards which resulted in complaints to Cheltenham Borough Council. Given these concerns, a meeting had been arranged with Cheltenham Borough and Gloucester City Councils on 20 June to consider the issues and how they might be addressed; a report would subsequently be brought to the Licensing Committee meeting on 18 October 2018. The Chair welcomed this review and felt that it may help to overcome the perception that it was easier to obtain a licence from Tewkesbury Borough Council than Cheltenham Borough and Gloucester City Councils. He was of the view that it was important to consider fairness to other districts if drivers were operating in their areas under different conditions. A Member indicated that the major complaint he was aware of was in relation to the age of vehicles as Tewkesbury Borough Council allowed licensed private hire vehicles to be slightly older than other local authorities. The Environmental Health Manager agreed that this was one of the concerns; if Tewkesbury Borough Council did amend its policy it would be important to consider the impact on particular groups, for example, a lot of private hire vehicles within Tewkesbury Borough were adapted for disabled use. Another aspect to consider was air quality. The Member also raised concern that the area codes for telephone numbers could make it appear that a private hire driver was located within Cheltenham Borough when they were actually in Tewkesbury Borough, for example,

in Bishop's Cleeve - people may think they were contacting a local taxi when that was not strictly true. The Environmental Health Manager was not aware of this being a particular problem but he would raise this at the meeting later in the month. In response to a query as to why drivers might prefer to be licensed by Tewkesbury Borough Council, Members were advised that it was a combination of factors, including the cost of the actual licence and MOT requirements, rather than one overarching reason. The Chair stressed that uniformity did not mean that the policies had to be identical but it was important to ensure that they were aligned. Another Member highlighted the benefits of the Licensing Sub-Committee meetings which provided an opportunity to consider the particular circumstances of individual applicants and to divert from the normal policy if appropriate; she was keen not to lose this human element.

- 8.4 Members were reminded that a draft revised Mobile Homes and Caravan Sites Policy had been presented to the Licensing Committee on 13 October 2016 where it had been approved for a 12 week public consultation. Shortly afterwards, the government had announced it would be carrying out a review of the law in respect of park homes in 2017 and, given the potential impacts on the Council's policy, the consultation had been put on hold. The park homes review had been carried out in 2017/18 and was split into two parts; the second call for evidence had run until February 2018 with a summary of responses published in May 2018, although the final conclusions and recommendations would not be published until later in the year. Members were advised that, if there were recommendations within the final conclusions which impacted on the previously presented revised policy, the amendments would be brought back to the Committee prior to public consultation. If no amendments were necessary, the draft as previously agreed would be sent out for public consultation.

- 8.5 The Environmental Health Manager went on explain the changes to legislation around Houses in Multiple Occupation (HMO). He advised that the Licensing of Housing in Multiple Occupation (Prescribed Description) (England) Order 2018 revoked and replaced the 2006 Order and tightened the definition of a mandatory licensable HMO to include properties that were two storeys. The new definition would apply from 1 October 2018 and was expected to have a significant impact on the number of HMOs that required licensing within Tewkesbury Borough – under the current regime there were four licensed HMOs and this could potentially rise to more than 100. A countywide group was meeting on a monthly basis to discuss the issues, in particular how to identify which properties would be affected, and to come up with a charging scheme that adequately reflected the costs of licensing HMOs. It was noted that it was intended to run a widespread publicity campaign in the run up to the introduction of the new legislation in October. The Chair indicated that this was important in terms of protecting landlords but was also about safety and the Council's reputation. If there was a need to act quickly over the coming months, he would be happy to convene a special meeting of the Licensing Committee. A Member welcomed the legislative changes as she had concerns about the safety of certain properties which would not have previously required a licence. She pointed out that Members would have local knowledge about properties in their Wards so they should be kept informed of the changes. The Environmental Health Manager indicated that any information would be helpful in terms of building a database and it would be preferable for investigations to start sooner rather than later. In response to a query, Members were advised that HMOs were difficult to define but broadly speaking they were properties occupied by five or more persons from two or more households. Another Member indicated that HMOs were a minefield as it was difficult to establish how long some people had been residents, for example, there was a lot of 'sofa-surfing' and a significant student population – landlords might let a property to a student and later find five or six people were living there. The Chair

felt it would be useful to circulate a Member Update on the changes to the HMO legislation and suggested that publicity should also be discussed with the Lead Member for Clean and Green Environment.

- 8.6 Members were advised that the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 also came into force on 1 October 2018. The regulations reviewed and reformed the pet licensing controls and updated the licensing system for dog breeding, pet sales, riding establishments and animal boarding establishments. In addition, it modernised the system for animal exhibits which were currently regulated under the Performing Animals Act 1925 and came under the responsibility of Gloucestershire County Council. The Environmental Health Manager explained that one of the main changes was in relation to dog breeding establishments where the number of breeding bitches had been reduced from five to three. The government's impact assessment based on the new regulations predicted each local authority could see a 700% increase in licensable dog breeding establishments. Furthermore, there were other activities, such as doggy day care, which may be included in the definition so there could be an even greater impact. This was being considered by the countywide animal welfare group and statutory guidance was due to be released in September 2018 which would help to clarify the new licensing regime. A Member noted that dog walking businesses were growing in popularity which could lead to problems with dogs being left in vehicles and she questioned whether this would be covered by the legislation. The Environmental Health Manager indicated that this type of activity may come under the definition of doggy day care; however, he pointed out that leaving a dog in a hot car was already an offence covered by the existing animal welfare regulations.
- 8.7 At the Licensing Committee on 8 February 2018, Members had asked officers to consider including Disclosure and Barring Service (DBS) checks for street traders within the Council's Street Trading Policy. The Head of Community Services advised that, following the meeting, officers had considered several street trading policies from different authorities and found a mix of approaches. In terms of safeguarding, it may be appropriate to introduce a similar requirement at Tewkesbury Borough Council; however, this needed to be balanced against being overly burdensome in terms of the likelihood of street traders coming into contact with children and vulnerable adults. A Member expressed the view that both children and vulnerable adults could be in contact with street traders selling ice creams or burgers from vans and he felt that all street traders should be required to undergo a DBS check. The Legal Adviser explained that it was a human right to work and earn a living; applicants would have to pay for the check themselves and it was possible that they may have cautions or convictions that would be spent, or would not be relevant to them working with children/vulnerable adults, so there needed to be clear parameters in terms of what the check was for and why it was required. It was noted that introducing a check would be a significant change to the Council's Street Trading Policy and a document had been prepared for public consultation should Members consider that to be an appropriate way forward. Members felt that this would be the best approach, subject to the document being agreed with the Chair and the Lead Member prior to consultation, and the Environmental Health Manager undertook to present the results to the Committee at the meeting in October.

8.8

It was

RESOLVED

1. That the revised draft Hackney Carriage and Private Hire Policy be taken to the Licensing Committee on 18 October 2018 following the meeting with Cheltenham Borough and Gloucester City Councils to identify the discrepancies between the policies and how they could be aligned.
2. That the Review of Mobile Homes and Caravan Sites Licensing Policy be taken to a future Licensing Committee meeting to approve amendments following the publication of the government's final conclusions and recommendations in respect of the park homes review, or, if no amendments are required, following public consultation.
3. That the consultation document on the inclusion of a requirement for Disclosure and Barring Service (DBS) checks for street traders within the Council's Street Trading Policy be agreed with the Chair and Lead Member for Clean and Green Environment prior to public consultation and that the results be presented to the Licensing Committee meeting on 18 October 2018.

The meeting closed at 3:30 pm

TEWKESBURY BOROUGH COUNCIL

Minutes of a Meeting of the Licensing Sub-Committee (Licensing Act 2003 and Gambling Act 2005) held at the Council Offices, Gloucester Road, Tewkesbury on Tuesday, 19 June 2018 commencing at 1:30 pm

Present:

Chair

Councillor R E Garnham

and Councillors:

G F Blackwell and J Greening

LSB/A.1 ELECTION OF CHAIR

- 1.1 It was proposed, seconded and

RESOLVED That Councillor R E Garnham be appointed as Chair for the meeting.

LSB/A.2 ANNOUNCEMENTS

- 2.1 The evacuation procedure, as noted on the Agenda, was advised to those present.

LSB/A.3 DECLARATIONS OF INTEREST

- 3.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.
- 3.2 There were no declarations made on this occasion.

LSB/A.4 APPLICATION FOR A PREMISES LICENCE - WITCOMBE CIDER FESTIVAL

- 4.1 The report of the Head of Community Services, circulated at Pages No. 1-419, outlined an application for a premises licence in respect of Witcombe Cider Festival, fields adjacent to the M5 motorway, 250m south of Pressmead Farm, Brockworth Road, Churchdown. The Licensing Sub-Committee was asked to determine the application, taking such steps, if any, considered necessary for the promotion of the licensing objectives.
- 4.2 The Chair asked all parties present to identify themselves and explained the procedure that would be followed by the Sub-Committee. He advised that the Sub-Committee had visited the application site on Monday 18 June in order to familiarise themselves with the area and he clarified that this was purely a fact-finding exercise with no debate and no opinions had been expressed by the Panel Members. The Head of Community Services explained that he was presenting the report on behalf of the Tewkesbury Borough Council Licensing Team. The application had been made under Section 17 of the Licensing Act 2003 and was received by the Council, as the licensing authority, on 3 May 2018. He confirmed that it had been advertised in accordance with the Licensing Act 2003 (Hearing Regulations 2005) and a copy of the application was attached at Appendix 1 to the report. The plan showing the

layout of the premises was attached at Page No. 44 of the report and it was noted that this was superseded by an amended version received on 4 June 2018 which had been circulated separately. The licensable activities requested were outlined at Pages No. 3-4 of the report; it should be noted that the application requested that these activities only take place under the authority of the premises licence on a maximum of two occasions per calendar year - that being one event per year plus one contingency weekend that may need to be used in the event of unforeseen circumstances in relation to the main event - and could not be carried out on more than three consecutive days on any one occasion i.e. when the premises was open to members of the public. The good practice measures set out at Page No. 17 of the report would form part of the working document which would be called the Event Management Plan and included an Event Operating Schedule, Event Safety Plan, Risk Assessment, Health and Safety Plan, Sound Management Plan, Safeguarding Plan and Traffic Management Plan. The Sub-Committee had met the applicant on site the previous day and, in order to address concerns about road and traffic safety, the applicant had offered an additional road closure for the main road on the edge of the site near the entrances and the Head of Community Services hoped to see this included in the Traffic Management Plan to alleviate concerns about members of the public attending the event walking down the busy road. If the application was granted, the 'core conditions' that had been offered would be attached to the licence and/or included as part of the Events Management Plan which would run parallel to the licence.

- 4.3 During the consultation period, 14 representations had been received from members of the public, attached at Appendix 6 to the report. 12 of the representations were in objection to the festival on the basis that it would undermine one or more of the licensing objectives and the other two representations supported the application. It was noted that an additional objection had been received from Brockworth Parish Council which had been circulated separately along with a statement in support of the application which had been omitted from the original Agenda pack. Representations had also been received from Gloucestershire Constabulary, as a responsible authority, which objected to the application. This representation was attached at Appendix 5 to the report. It was noted that there had been several meetings of the Safety Advisory Group, attended by the Police and the applicant, to discuss the event including the Event Management Plan offered by the applicant and the proposals to implement measures to uphold the licensing objectives. Unfortunately, an agreement could not be reached to alleviate the concerns raised by the Police and the application had therefore been referred to the Licensing Sub-Committee for determination. The Sub-Committee was reminded that the hearing was to consider the application and the full range of activities that would be covered by the licence; the focus should not relate to the Witcombe Cider Festival alone as this was just one type of event that the licence may allow, for instance, it could allow for lower key events that the local community may wish to hold such as choir singing, playing music and displays of dance. It was also noted that a Temporary Events Notice could be submitted to extend the number of days if the number of attendees did not exceed 499 persons.
- 4.4 The Sub-Committee was reminded of its obligation to determine the application with a view to promoting the licensing objectives of the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm. In making its decision, regard must be had to the statutory guidance and Tewkesbury Borough Council's adopted Statement of Licensing Policy, attached at Appendix 8 to the report. Members were advised that the policy stated that conditions must be necessary and proportionate and must promote the four licensing objectives. Furthermore, pools of conditions supplied by the Home Secretary should not be applied universally, irrespective of particular circumstances, but may be used as examples that could be tailored to suit individual premises and

particular situations. The licensing conditions should not replicate any other legislation, other than the Licensing Act 2003. Members should be mindful of the indirect costs that could arise because of conditions as they could be a deterrent to holding events that were valuable to the community or for the funding of good and important causes. The Sub-Committee was advised that it could either: grant the application as requested and attach conditions consistent with the Operating Schedule; modify the conditions and/or timing of the licensable activities; or reject the application in whole or in part. The Head of Community Services drew particular attention to Page No. 3, Paragraph 2.1 of the report, and clarified that the hours for live music or similar activity referred to for Sunday should read: 00:00 to ~~00:04~~ **01:00**.

- 4.5 The Chair invited any questions for the Head of Community Services. In respect of safeguarding, a Member queried whether there was a requirement for staff working at the festival to undergo Disclosure and Barring Service (DBS) checks. The Head of Community Services advised that there was no requirement for DBS checks; however, the management and running of the event had been discussed by the Safety Advisory Group and that Group was satisfied with the safeguarding plan that had been put in place in relation to previous events. In response to a query regarding the road closure, the Head of Community Services advised that this would allow the applicant to take control of the road and he assumed it would apply for the duration of the event. The Chair asked the applicant to clarify the situation with the road closure. The Licensing Barrister referred the Sub-Committee to the site layout plan, circulated separately, and advised that the proposal – which had been approved in principle by Gloucestershire County Highways – was to close the road running north to south so there would only be one lane available to cars travelling south and the northbound carriageway would be for pedestrian use. This would apply from 0600 hours on the Friday of the event until 0600 on the Monday during which time the road would be under the control of the applicant and his team, which would include specialist companies that would be making sure the road was operating safely and in the interests of the public. There were pedestrian accesses at the north and south of the site; the access at the south of site was a shared access which had an opening that was wide enough to allow both cars and pedestrians to exit and this would also be an entrance for pedestrians. Taxis and buses would drop-off via a separate entrance which was marked on the plan; they would go through a turning circle and could only exit south along Brockworth Road. It was intended to have traffic lights at the junction where the site met the Brockworth Road; these would be infrared and therefore able to detect when it was safe to exit onto that road. It was acknowledged that the shared entrance for pedestrians and buses at the previous festival site on the A46 had created difficulties. There was also a high residential population along the A46 and, whilst there had been some objections to this application from residents of Court Road about pedestrians walking along the carriageway and past their houses, the Licensing Barrister gave assurance that additional security would be provided and staff would be given specific instructions to monitor those houses. In addition to the road closure, traffic cones would be used to ensure that people did not park on Brockworth Road. In response to a query as to the next steps, the Health and Safety Event Co-ordinator advised that the road closure application had been submitted and he had met with representatives from Gloucestershire Highways who had accepted the proposal and requested a traffic management plan. Link Highway Services, a Chapter 8 approved traffic management contractor, had put together a signage schedule which would be updated to include parking cones, speed restrictions of 20mph and no parking/no waiting signs along Brockworth Road. The Chair sought assurance that Gloucestershire County Highways was happy with the proposal and the Health and Safety Event Co-ordinator confirmed that was the case. A question was raised as to how cars would access the car park, given that one lane of the road would be used by pedestrians, and also how residents would gain

access to their properties. In response the Health and Safety Event Co-ordinator advised that there would be advanced warning signs and a two-way system would continue to operate at the bottom of Court Road for residents only; similarly, there would be a two-way system for the handful of residents at the Churchdown end. In terms of the car park, vehicles would be diverted around Hucclecote Lane to go via the Churchdown end of Brockworth Road. A representative from Gloucestershire Constabulary sought confirmation as to what would happen in an emergency and how that would be facilitated given the road closure etc. The applicant explained that the traffic management company would be manning the road closure and letting accredited vehicles through so they would be able to react to an emergency and stop traffic from exiting to allow clear passage for any emergency vehicles.

4.6 The Chair indicated that there were a wealth of plans associated with the event and he questioned what would be done to ensure these were all adhered to, should the licence be granted. The Head of Community Services explained that the process would be the same as for previous events i.e. there would be a series of Safety Advisory Group meetings with the applicant and his colleagues and the relevant authorities to go through the various plans and ensure they were to the satisfaction of the Council. Officers would also visit the site to check compliance during the event. It was noted that the Council did not have the resources to monitor noise at the event and a condition had been included on the previous licence that this must be undertaken by a professional. The Head of Community Services understood that a professional noise monitoring company had been on site last year and that Officers had been relatively content with the records it had provided.

4.7 The Chair invited the representatives from Gloucestershire Constabulary to present their case. The Gloucestershire Constabulary Head of Legal Services firstly stated that this was a new application and therefore there were new issues to consider; he did not feel that the Sub-Committee would benefit from going over the history of the event in detail. He explained that the issues raised in the representation from Brockworth Parish Council were ostensibly the same as the concerns held by the Police prior to the hearing – whilst he noted that a road closure application had been submitted, there were still a number of matters to address. Firstly, there was a concern that people wanting to avoid paying for parking may park in the villages in close proximity to the site. Furthermore, whilst the incidents reported to the Police historically had been relatively low level, there had been some drunkenness and drug-taking associated with the festival. This application sought a significant increase in the number of attendees and it appeared that it was now a music festival first and foremost as opposed to a cider festival which is how it had been pitched previously. A number of the issues that had arisen the previous year had been during the musical entertainment when particular artists were performing, which may be relevant in terms of the crowd and the dynamics, and this changing environment needed to be borne in mind. Running an event of this size came with significant responsibilities and, although the plans that had been considered by the Safety Advisory Group appeared to be acceptable, it was vital to ensure that the staff complied with those principles in order to maintain the safety of the event.

4.8 As there were no questions for Gloucestershire Constabulary, the Chair invited other parties who had attended the Sub-Committee to make representations, starting with Brockworth Parish Council. A Brockworth Parish Councillor explained that a meeting had taken place on 23 May 2018 between the applicant and his representatives and the local residents. At the end of the meeting, the Parish Council had requested a risk assessment for the event which had been provided later that evening. The Parish Council had subsequently called an Extraordinary Parish Council meeting on the basis of the risk assessment which bore no resemblance to what they had been told and what had been applied for. In terms of the narrow roads, the applicant had previously advised that the verges would be cut which would give an extra four feet whereas today it had been stated that a road

closure would be put in place to close one lane; notwithstanding this, he considered that lighting would still be needed. In response, the applicant confirmed that, if the safety specialist confirmed that lighting was needed then he would ensure it was installed; he indicated that a Safety Advisory Group had been scheduled for 5 July 2018 for any outstanding issues, including the road closure, to be discussed. The Brockworth Parish Councillor went on to indicate that the proposed one-way traffic system would be a problem given that there could potentially be 10,000 attendees as all traffic would be leaving the site at the same time between the hours of 2300 and 0300. He was convinced that on-street parking would be an issue and he questioned whether the security staff had any powers to prevent this. The applicant explained that he would take ownership of the road for the duration of the road closure and would have the power to tow any cars that were parked illegally. The Health and Safety Event Co-ordinator confirmed that this was not a significant concern for County Highways. He reiterated the intention to put out traffic cones and 'no parking' signage and confirmed that APCOA Parking would be able to enforce any illegal parking with ticketing etc. Specific concern was raised about traffic turning into Court Road from the Community Centre in terms of what would happen if vehicles inadvertently used the closed road and how they would turn around. It was also noted that there could be a lot of agricultural traffic in the area at the end of August and a question was raised as to whether there were any contingencies for that. The Health and Safety Event Co-ordinator clarified that the road closure would be manned and vehicles trying to access the event from the Court Road end would be turned around. He appreciated the point about the agricultural vehicles and would look to resolve that with the farmers. The Chair provided assurance that these points would be noted for further discussion and resolution by the Safety Advisory Group should the application be granted.

- 4.9 The Brockworth Parish Councillor went on to point out that that the monitoring document presented as part of the risk assessment was dated 10 August 2017 and therefore was out of date. In response, the Licensing Barrister confirmed that noise monitoring had been carried out by a professional acoustician at the festival last year and the document had been provided to demonstrate these obligations – should this licence be granted, the acoustician would be re-appointed and a similar report would be produced for this year. A local resident indicated that his house was some distance from the previous festival site, and was double-glazed, but he had still been able to hear music from the festival at 2100 hours so he questioned when the monitoring was carried out. The Sub-Committee was informed that noise monitoring was undertaken on a regular basis. In 2017 there had been occasions where the decibel level had increased; this was when certain musicians had taken control, rather than the technicians, and assurance was provided that this could be addressed by condition to ensure it did not happen again. In the main, the decibel level had not been exceeded and - although local residents may take a different view - the levels recorded by the professional acoustician were the legally accepted levels. The Chair queried whether it was possible to use a noise limiter so that the music cut out if the decibels went beyond the prescribed level. Tewkesbury Borough Council's Environmental Health Manager explained that noise limiters brought their own problems, for instance, they could interfere with the frequency etc. He provided assurance that Tewkesbury Borough Council's Environmental Health Officers would set up the equipment with the consultant and would undertake independent monitoring. It was worth noting that certain climatic conditions, such as low cloud, could affect noise levels and this was almost impossible to predict.
- 4.10 In response to a concern about disorderly behaviour arising from the festival, the Chair sought further details about the Security Industry Authority (SIA) approved security staff. The Licensing Barrister explained that the number of security staff had previously been prescribed by way of condition. He drew attention to the proposed conditions at Page No. 40 of the report, in particular condition 3, which

stated that “*between the hours of 0900 and 2000 on event days, there shall be no less than 30 security officers on site*” and condition 4 which stated that “*between the hours of 2000 and closing time on event days, the number of security officers shall be maintained at a minimum ratio of one security officer to 75 patrons*”. The latter condition meant that, with a capacity of 10,000, there would be 134 security officers on site. The security company in charge of the SIA staff was working on the basis of 150 door staff so that, when the final numbers were confirmed, they could scale down rather than up. The Chair suggested that it would be helpful to have a condition which stated that there would be “no less than x” number of security staff and he questioned if that was possible. In response, the Licensing Barrister indicated that it was difficult to give a figure. He explained that all pedestrians would be subject to a central security check - this element of the security operation alone would require 30 staff so this would be a minimum number but in practice it would be many more. In response to a query as to how the applicant would ensure there were enough security staff to comply with the ratio set out in the conditions whilst also making sure they did not breach health and safety laws in terms of hours of working, the Licensing Barrister clarified this would be managed by the security company, Sterling Security Solutions. The representative from John Dix Travel confirmed that he intended to manage the security provision on vehicles this year and would provide his own staff for that purpose. The Brockworth Parish Councillor went on to question what would happen if people were unwilling to pay for parking as he felt this would cause a considerable problem with on-street parking in Brockworth. The Licensing Barrister explained that the £10 car parking fee had been set at what was considered to be affordable and was not intended to act as a deterrent; in his opinion people were unlikely to park in the areas the Parish Councillor was concerned about which were over a mile away from the festival site.

- 4.11 The Brockworth Parish Council acknowledged what the Head of Community Services had said in respect of safeguarding at the start of the meeting; however, he continued to have concerns bearing in mind it was pitched as a family festival and there would be young children at the event. The Head of Community Services confirmed that the applicant had been absolutely compliant with the safeguarding policy that had been presented to the Safety Advisory Group last year. In an ideal world, every member of staff would have a DBS check but that was not realistic; nevertheless, it would be possible to ensure that certain staff who would have contact with children were checked. The representative from Sterling Security Solutions confirmed that all of his SIA operatives were DBS checked every three years and this was standard procedure. In response to a query as to whether he would need to use security staff from other companies for the event, the representative from Sterling Security Solutions confirmed that he had obtained the necessary identification and licence documentation from all sub-contractors. The Health and Safety Event Co-ordinator clarified that he would be the designated safeguarding officer and was suitably qualified for that role. He provided assurance that anyone named on the safeguarding policy would be DBS checked. A number of questions were subsequently put to the representative from Sterling Security Solutions about his background and he confirmed that he had previously been involved with a number of other security companies but he was now an Operational Manager for Sterling Security Solutions which was in the process of appointing Approved Contractor Scheme (ACS) contractors with SIA badges for the event. In response to a query, the Head of Community Services advised that safeguarding did not cover drug use. The applicant confirmed that the festival had a strict anti-drugs policy and everyone would be searched on entry; this included routine drug testing and the use of a security dog. It was also noted that the security company had knowledge of persons of concern in the local area and they would not be allowed on site. The Gloucestershire Constabulary Head of Legal Services indicated that the Police could assist the event in this regard and suggested that the Safety Advisory Group consider how security could be heightened. A Member queried whether

children were searched and the applicant confirmed that they would be along with changing bags, bottles and any other equipment; he provided assurance that this would be done with safeguarding in mind. Another Member questioned whether security staff were able to search female attendees and the representative from Sterling Security Solutions confirmed that there would be approximately 25-30 female staff. The Chair indicated that this needed to be a stronger commitment and he would like to see a minimum number.

- 4.12 A local resident raised concern that there was a wedding at St. George's Church in Brockworth at 1230 hours on the Saturday of the event and a normal Sunday service at 1000 hours which could be impacted by the event in terms of access and noise; this was a particular problem for the wedding which was a very special day for those involved. The Independent Licensing Consultant from Easy Licensing explained that there would be advanced warning signs at the roundabout approaching Court Road and the first road on the right would be a turning point. There would be no access beyond that point unless they were a resident or attending the church. In terms of notifying residents, a letter had been delivered to all properties in Court Road and he would be happy to re-send that. The Chair suggested that, if the licence was granted, it would be helpful to put a copy of the traffic management plan onto the event website. It would also be necessary for the applicant to discuss access with the church warden to ensure that people attending the services were not adversely affected.
- 4.13 In response to a query as to why the festival needed to take place over three days, the applicant indicated that this was due to demand; he pointed out that the festival was the highlight of the summer for some people and they looked forward to it all year. The Licensing Barrister pointed out that the live music was provided by local bands as well as more well-known artists and, for them, a three day festival was a significant opportunity to showcase their talent and to play in front of a large crowd. The Brockworth Parish Councillor understood that, if the licence was granted, the applicant intended to introduce a camping element going forward and he questioned how that would be controlled. The Licensing Barrister clarified that there was currently no intention to offer camping and, if that was something the applicant wished to introduce in the future, an application would need to be made to vary the licence. The Chair reminded the local residents and responsible authorities that, if granted, the licence could be reviewed at any point if it was felt that the conditions were not being adhered.
- 4.14 A Member noted that the event would run until 0300 hours and sought clarification as to what time the microphone would be switched off and when the site would be evacuated. The Licensing Barrister confirmed that the live music would end at 2300 hours and any music occurring after that time must be "virtually not audible or discernible" as set out in condition 7 at Page No. 41 of the report. Dancing and recorded music and the supply of alcohol would cease at 0100 hours and late night refreshment would end at 0200 hours. The Head of Community Services clarified that, whilst there would be no licensable activity on the premises after 0200 hours, the opening hours were until 0300 hours which he assumed was to give people time to evacuate the site. A local resident raised concern that alcohol would be sold from 0900 hours, particularly as it was a family event, and the Licensing Barrister indicated that the applicant would be happy with a later time of 1000 or 1030 hours.
- 4.15 The Chair invited the applicant to make his case. The Licensing Barrister thanked Gloucestershire Constabulary for the constructive approach taken at the hearing and he also wished to acknowledge the benefits of the Safety Advisory Group meetings in the lead-up. The cider festival had grown significantly from its humble beginnings in the cricket club six years ago and the main priority was to ensure that it continued to run in a safe and secure manner and that the licensing objectives were promoted as far as possible. The application was for a three day event and the lease between the applicant and the landowner ran for 10 years – it was not forever and it was

possible to call a review at any time. The applicant spent his life opening doors and finding solutions so nothing was too much of an obstacle, for instance, he was sure there was a solution to ensuring the wedding at the church ran smoothly and the applicant was willing to sit down with everyone involved to make sure it was remembered for the right reasons - he advised that the stage had been positioned to face in an easterly direction and the church was over a mile away so there should be minimal disturbance. The applicant's door was always open and he was happy to discuss any issues with local residents. The festival had outgrown its previous site where it had been run with minimal impact on the Police and instances of bad behaviour had been few and far between. It attracted people of all ages and the range of music on offer reflected that. The applicant employed the best staff, whether that be SIA security, health and safety or transport. There would be an increase in the number of buses running to and from the site this year and they would be picking up/dropping off from 10 destinations to further reduce the amount of people driving to the festival. He went on to reiterate that the issue with the noise level exceeding the prescribed level on a few occasions was preventable and would be discussed further by the Safety Advisory Group.

- 4.16 The Licensing Barrister went on to indicate that he had received a letter from the Gloucestershire Constabulary Licensing Officer on Friday of the previous week setting out a number of conditions, many of which were included in the Operating Schedule. He would be disappointed if all these conditions were imposed and he reminded the Sub-Committee of the advice given by the Head of Community Services at the start of the meeting in terms of overburdening the licence. He made particular reference to the suggested condition in respect of CCTV and indicated that, whilst CCTV would be installed at the entrance, it would be difficult to install it in every bar; however, it was possible to provide SIA security staff with body cameras which would be on continual record. The Chair felt that it would be beneficial to have a short adjournment to allow the applicant and his representatives to discuss these conditions with Gloucestershire Constabulary and come to an agreement as to a way forward.

The meeting adjourned at 3:40pm

The meeting reconvened at 4:15pm

- 4.17 The Chair thanked everyone for their patience and indicated that an agreement had been reached so the short break had been beneficial. The Licensing Barrister advised that, following the discussion, the applicant was happy to include a blanket condition as follows: ***"The premises will be operated in accordance with the provisions of the event management plan dated 22 May 2018 and may be varied from time to time in agreement with all of the responsible authorities"***. In addition, condition 7, set out at Page No. 40 of the report, would be extended as follows: "A CCTV system shall be installed at the security checkpoint on the site in order to record images of patrons attending the event. ***In addition, a minimum of five SIA door staff shall be equipped with body cameras, one of whom shall be permanently positioned in the main marquee.*** Recordings shall be retained for a minimum of two weeks and shall be made available to the statutory authorities on request in the event of problems occurring". With regard to condition 4 on Page No. 4 of the report, it was noted that Gloucestershire Constabulary wished to change "patrons" to "persons" and it had been amended as follows: "Between the hours of 2000 and closing time on event days, the number of security officers shall be maintained at a minimum ratio of 1 security officer to 75 ***patrons persons excluding staff and children under 12***". The Legal Adviser confirmed that she was comfortable with the amendments.

- 4.18 The Chair invited any final questions of the applicant. The Gloucestershire Constabulary Head of Legal Services sought confirmation of the access onto the site for the Police and any emergency vehicles and he was advised that the current

routes for buses and cars were usable by all emergency services. Clarification was provided that arrangements for were in place, in case of bad, weather, for tracking to be laid down and four wheel drive vehicles to remove any vehicles which got stuck. The Gloucestershire Constabulary Head of Legal Services questioned whether all parts of the site were accessible if Police vehicles needed to enter the site and confirmation was provided that the site was fully accessible by car or on foot. In response to a query as to where people would be evacuated if all the car parks were full, the Licensing Barrister advised that it was highly unlikely that the car parks would be full – there had been approximately 3,000 attendees last year, including staff, and only 150 cars. The car park area was enormous with around 5,000 spaces. The Health and Safety Event Co-ordinator confirmed that the assembly point was at the bus/taxi drop-off point and there was an alternative assembly point at the south of the overflow car park.

- 4.19 The Chair indicated that there had been some confusion over the number of attendees, and whether this included staff and children, and he questioned whether a total number of 10,000 attendees would be problematic for the applicant. The Licensing Barrister indicated that the applicant would prefer that staff, including performers, were not included within the 10,000.
- 4.20 The Chair indicated that the Sub-Committee would retire to make its decision.
- 4.21 When the meeting reconvened, the Chair advised that, having considered the application, all of the evidence presented, the representations made by all parties, the licensing objectives, the national guidance and the Council's own licensing policy, it was

RESOLVED That the premises licence be **GRANTED** as set out in the attached Decision Notice.

The meeting closed at 5:25 pm

DECISION NOTICE

COMMITTEE: Licensing Sub-Committee (Licensing Act 2003 and Gambling Act 2005)

DATE: Tuesday, 19 June 2018

Premises:	Witcombe Cider Festival, Fields Adjacent to M5 Motorway, 250m south of Pressmead Farm, Brockworth Road, Churchdown, GL3 4RA.
Applicant:	Joseph Pointon.
Application for a premises licence.	
Present:	Councillors G F Blackwell, R E Garnham (Chair) and J Greening.
Representatives of the Applicant:	Andrew Cook – Independent Licensing Consultant for Easy Licensing. John Dix – John Dix Travel. Alan Lamb - Rugby for Heroes. Danny Pointon – Event Manager. Joseph Pointon – Applicant. James Rankin - Licensing Barrister. Dewi Scourfield – Health and Safety Event Co-ordinator. Darren Simms – Sterling Security Solutions.
Responsible Authorities:	PC Nick Battye - Gloucestershire Constabulary Licensing Officer. Rachel Bellak – Gloucestershire Constabulary Licensing Officer. Gordon Buchanan – Tewkesbury Borough Council Environmental Health Manager. Dave Collicott – Gloucestershire Constabulary Traffic Management and Road Safety Manager. Michael Griffiths – Gloucestershire Constabulary Head of Legal Services. PC Matt Hammond – Gloucestershire Constabulary Licensing Officer. PC Richard Handley – Gloucestershire Constabulary. Philippa Heath – Tewkesbury Borough Council Temporary Licensing Officer. PC Steve Kiernan – Gloucestershire Constabulary Licensing Officer. Alastair Low – Tewkesbury Borough Council Principal

Environmental Health Officer.

PC Andy Robertson – Gloucestershire Constabulary.

Other Parties Addressing the
Sub-Committee:

Councillor Ron Furolo – Brockworth Parish Councillor.

Chair of Brockworth Parish Council.

Vice-Chair of Brockworth Parish Council.

Clerk to Brockworth Parish Council.

Three local residents.

SUMMARY OF REPRESENTATIONS

1. One responsible authority had made a representation in relation to the application: Gloucestershire Constabulary.
2. 14 valid representations had been received from members of the public: two representations in support of the application and 12 representations in objection to the application.
3. A late representation was received from Brockworth Parish Council which was accepted at the Chair's discretion. The Chair also allowed the Church Warden from St George's Church, Brockworth to speak even though his representation had been received out of time.

THE APPLICATION

Relevant licensable activities and hours applied for:

Live Music or similar activity Amplified and Unamplified Music, Outdoor Music Will Cease at 23:00hrs	Friday	09:00 to 00:00
	Saturday	00:00 to 01:00, 09:00 to 00:00
	Sunday	00:00 to 01:00, 09:00 to 00:00
	Monday	00:00 to 01:00
Recorded Music or similar activity Recorded Music Will be Played Between Live Music Performances. Outdoor Music Will Cease at 23:00hrs.	Friday	09:00 to 00:00
	Saturday	00:00 to 01:00, 09:00 to 00:00
	Sunday	00:00 to 01:00, 09:00 to 00:00
	Monday	00:00-01:00
Performance of Dance or similar activity	Friday	09:00 to 00:00
	Saturday	00:00 to 01:00, 09:00 to 00:00
	Sunday	00:00 to 01:00, 09:00 to 00:00
	Monday	00:00 to 01:00
Late Night Refreshment	Friday	23:00 to 00:00
	Saturday	00:00 to 02:00, 23:00 to 00:00
	Sunday	00:00 to 02:00, 23:00 to 00:00
	Monday	00:00 to 02:00, 23:00 to 00:00
Supply of Alcohol	Friday	09:00 to 00:00
	Saturday	00:00 to 01:00, 09:00 to 00:00
	Sunday	00:00 to 01:00, 09:00 to 00:00
	Monday	00:00 to 01:00
Hours Premises Open to Public	Friday	09:00 to 00:00
	Saturday	00:00 to 02:00, 09:00 to 00:00
	Sunday	00:00 to 02:00, 09:00 to 00:00
	Monday	00:00 to 02:00

DECISION

Having considered the application; the evidence provided; the representations made by all parties, including those made at the hearing; the four licencing objectives; the National Guidance; and the Council's Statement of Licensing Policy, it was resolved that the premises licence be **GRANTED** in accordance with the application set out, subject to the following amendments and conditions:

AMENDMENTS AND ADDITIONAL CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE AS AMENDED BY THE SUB-COMMTTEE

General

1. All mandatory conditions to be added to the licence.
2. All conditions proposed by the applicant at Pages No. 39-42 at Appendix 1 to the report be added to the licence, save for the following amendments at Page No. 40 under Prevention of Crime and Disorder:
 4. "Between the hours of 20:00 and closing-time on event days, the number of security officers shall be maintained at a minimum ratio of one security officer to 75 ~~patrons~~ **persons excluding staff and children under 12**"
 7. ~~"A CCTV system shall be installed at the security checkpoint on the site in order to record images of patrons attending the event. A CCTV system shall be installed at the security checkpoint on the site in order to record images of persons attending the event. In addition a minimum of five SIA door staff shall be equipped with body cams, one of whom shall be permanently positioned in the main marquee.~~
 Recordings shall be retained for a minimum of two weeks and shall be made available to the statutory authorities on request in the event of problems occurring."
3. The premises will be operated in accordance with the provisions of the event management plan dated 22 May 2018 and may be varied from time to time in agreement with all of the responsible authorities.

Public Safety

1. There shall be a capacity of 10,000 persons at the event at any one time (which includes staff, performers, security and children).

Prevention of Public Nuisance

1. The festival sound engineer is to maintain control of the mixing desk at all times.

The Sub-Committee also sought the following undertakings from the premises licence holder:

1. That all of the clauses agreed between the applicant and Gloucestershire Constabulary be added to the Operating Schedule.
2. That a first-aid station shall be present on site throughout the event, staffed by medically trained staff.
3. That the travel plan and road traffic management plan be clearly displayed on the festival website.
4. That there be sufficient free potable water facilities available for persons attending the event.

REASON

The Sub-Committee felt the constructive manner in which the responsible authority (Gloucestershire Constabulary) and the applicant had worked together at the Sub-Committee hearing had made for a swifter and more informed deliberation.

The Sub-Committee had deliberated over the number of persons that should be allowed to the event. One factor that still remained uncertain was how the total number of people on site would be controlled; therefore, at this stage, the Sub-Committee agreed that a maximum of 10,000 people would be allowed at any one time. Notwithstanding this, the applicant could apply to vary this condition in future years if deemed necessary.

The Sub-Committee decided to impose the extra condition in relation to the sound equipment in order to assist with the prevention of public nuisance should unauthorised personnel have access to the sound equipment and increase sound output above permitted levels.

The Sub-Committee was satisfied that all of the conditions attached to the licence would promote the licensing objectives.

The Sub-Committee had regard to the Human Rights Act 1990 and the European Convention on Human Rights as well as its duty under the Crime and Disorder Act 1998; however, it found that it had heard no evidence that any person's human rights would be infringed by granting the application, nor was it sufficient to convince the Panel that any significant crime and disorder would be caused by granting the application.

All interested parties were reminded of their right of appeal to the local Magistrates Court within 21 days of the decision.

TEWKESBURY BOROUGH COUNCIL

Report to:	Licensing Committee
Date of Meeting:	18 October 2018
Subject:	Review of Hackney Carriage (Taxi) and Private Hire Policy
Report of:	Environmental Health Manager
Corporate Lead:	Head of Community Services
Lead Member:	Lead Member for Clean and Green Environment
Number of Appendices:	Two

Executive Summary:

At the Licensing Committee meeting on 14 June 2018, Members were advised that Cheltenham Borough Council and Gloucester City Council had raised concerns about the disparities between Tewkesbury Borough Council's Hackney Carriage (Taxi) and Private Hire Policy and their policies. Since that time, meetings were held with both authorities to discuss this further and a number of differences were identified. In order to consider further, the best way to revise Tewkesbury Borough Council's policy, in order that it might align more closely with the other policies, more detailed consideration of the complexities of changing individual components of the policy is required and Members are asked to establish a Working Group to undertake this work.

Recommendation:

- 1. To AGREE to establish a Licensing Working Group to review the Hackney Carriage (Taxi) and Private Hire Policy and to name five Members to serve on the Working Group.**
- 2. To APPROVE the proposed Terms of Reference for the Working Group as set out at Appendix 1.**

Reasons for Recommendation:

Aligning Tewkesbury Borough Council's policy with both Gloucester City Council and Cheltenham Borough Council's policies will require significant changes. Now that the changes required have been identified, further work and consideration is required in order to analyse the impact of introducing these changes on the taxi industry and licensed vehicle users.

Resource Implications:

Officer and Member time will be required to form the Working Group and subsequently revise the existing policy.

Legal Implications:

There are no significant legal implications arising from this report as the proposed course of action is both reasonable and proportionate given the circumstances.

Risk Management Implications:

None.

Performance Management Follow-up:

The Hackney Carriage (Taxi) and Private Hire Policy Review Working Group will produce a draft revised policy which will be presented to the Licensing Committee at its meeting on 14 February 2019 for approval for public consultation.

Environmental Implications:

None.

1.0 INTRODUCTION/BACKGROUND

- 1.1 Tewkesbury Borough Council has the responsibility to regulate hackney carriage and private hire trade under the provisions of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
- 1.2 The Council's regulatory position is set out in Tewkesbury Borough Council's Hackney Carriage (Taxi) and Private Hire Policy 2016-19 which was revised on 6 December 2016. The Council has committed to review this policy every three years, therefore the next completed review would be due 6 December 2019.
- 1.3 A large number of the taxis licensed in Tewkesbury Borough operate predominantly in Cheltenham and Gloucester. There are a number of differences between Tewkesbury Borough Council's Hackney Carriage (Taxi) and Private Hire Policy Tewkesbury Borough Council's Hackney Carriage and Private Hire Policy and the policies of Cheltenham Borough Council and Gloucester City Council. The review of Tewkesbury Borough Council's Hackney Carriage (Taxi) and Private Hire Policy has been brought forward in order to align these policies as closely as possible.
- 1.4 Meetings were held with Gloucester City Council on 20 June 2018, and both Cheltenham Borough Council and Gloucester City Council on 21 September 2018, in order to identify the significant disparities between the policies.

2.0 HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS POLICY - DISPARITIES BETWEEN TEWKESBURY BOROUGH, GLOUCESTER CITY AND CHELTENHAM BOROUGH COUNCILS

- 2.1 Following the discussions with Gloucester City Council and Cheltenham Borough Council and consideration of their policies, a number of differences were identified between those policies and that of Tewkesbury Borough Council. In order to consider further the best way to revise Tewkesbury Borough Council's policy in order that it might align more closely with the other policies, more detailed consideration of the complexities of changing individual components of the policy is required.
- 2.2 In order to facilitate this, it is proposed that a Licensing Working Group be established comprising three Members of the Licensing Committee, plus the Lead Member for Clean and Green Environment. The proposed Terms of Reference for the Working Group are attached at Appendix 1.

3.0 OTHER OPTIONS CONSIDERED

- 3.1 N/A

4.0 CONSULTATION

4.1 N/A

5.0 RELEVANT COUNCIL POLICIES/STRATEGIES

5.1 Hackney Carriage (Taxi) And Private Hire Policy 2018

6.0 RELEVANT GOVERNMENT POLICIES

6.1 Department of Transport Taxi and Private Hire Vehicle Licensing: Best Practice, March 2010

7.0 RESOURCE IMPLICATIONS (Human/Property)

7.1 None directly associated with this report.

8.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

8.1 There will be longer term sustainability implications, particularly with regards to engine emissions. Further information is required and it is a recommendation of this report that information is obtained regarding the impact of reducing the minimum and maximum vehicle age.

9.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

9.1 Recommendation that all new Hackney Carriage Vehicles are wheelchair accessible. Concern regarding the potential impact of changing the age requirements of vehicles as a number of older vehicles used for transporting school children and disabled people. This report recommends that further information is obtained in order to establish how a change in policy may impact upon equalities.

10.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

10.1 N/A

Background Papers: None

Contact Officer: Environmental Health Manager
01684 2720117 gordon.buchanan@teWKesbury.gov.uk

Appendices: Appendix 1 – Hackney Carriage (Taxi) and Private Hire Policy Review Working Group - Proposed Terms of Reference
Appendix 2 - Hackney Carriage (Taxi) and Private Hire Policy 2016-19

Hackney Carriage (Taxi) and Private Hire Policy Review Working Group Terms of Reference

1. AIMS AND OBJECTIVES

To produce a revised draft Hackney Carriage (Taxi) and Private Hire Policy for submission to the Licensing Committee for approval.

2. CONSTITUTION AND POWERS

- i. The Working Group shall comprise five Members of the Licensing Committee.
- ii. The Working Group shall, at its first meeting, appoint a Chair and Vice-Chair.
- iii. The Working Group shall at its first meeting set out a programme of meetings for the review.
- iv. The Working Group will identify persons/bodies from whom they wish to receive representations and invite them to put forward their views.
- v. The quorum of the Group shall be three Members.
- vi. Substitution arrangements will not apply.

3. TERMS OF REFERENCE

The Working Group will consider the following:

- a. national policy and guidance relating to the licensing of taxis and taxi drivers and what changes are required to be made to the Council's existing policy in order to align with current policy and guidance;
- b. changes required in order to align Tewkesbury Borough Council's policy more closely with the taxi licensing policies of Cheltenham Borough Council and Gloucester City Council; and
- c. the impact of any of any proposed changes to the existing policy on taxi operators, drivers and users based on representations made to the Group.

4. DELEGATED POWERS

The purpose of the Working Group is to produce a draft revised policy for submission to the Licensing Committee which has delegated power to approve the revised policy prior to public consultation.



HACKNEY CARRIAGE (TAXI) AND PRIVATE HIRE POLICY

2016 - 2019

Tewkesbury Borough Council, Council Offices
Gloucester Road, Tewkesbury, Gloucestershire, GL20 5TT

www.tewkesbury.gov.uk/licensing

Revised with effect from 6 December 2016

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1. 1 Local area profile

Tewkesbury Borough covers an area of 160 square miles in north Gloucestershire with a population of approximately 86,000 people. The borough is situated within the Severn vale and stretches south beyond the outskirts of Cheltenham and Gloucester with borders alongside the county of Worcestershire to the north. It occupies the northern gateway into the south west region.

A map of the north-east of England showing the location of the study area. The study area is highlighted in red, and an inset map shows its location within the context of the United Kingdom.



- a) **to confirm to members** of the licensing committee the boundaries and powers of the council and the parameters within which to make decisions
- b) **to inform applicants** of the parameters within which the council will make licensing decisions and therefore how licensed operators, drivers and vehicles can operate within the area of the council.
- c) **to inform local residents and businesses** of the parameters within which the council will make licensing decisions and therefore how their needs will be addressed
- d) **to support a case in a court of law** where the council has to show how it arrived at its licensing decisions.

- a) the protection of public health and safety
- b) the maintenance of a professional and respected hackney carriage and private hire trade
- c) access to an efficient and effective transport service

d) the protection of the environment.

The aim of the licensing process, in this context, is primarily to protect the public as well as to ensure that the public have reasonable access to these services, because of the part they play in local transport provision. It is important that the council's hackney carriage and private hire licensing powers are used to ensure that licensed vehicles in the borough are safe, comfortable, properly insured and available where and when required.

We will have regard to this policy document and the objectives set out above when exercising our discretion in carrying out their regulatory functions. Notwithstanding the existence of this policy, each application or enforcement measure will be considered on its own merits in accordance with the enforcement policy. Where it is necessary to depart substantially from this policy, clear and compelling reasons will be given for doing so.

The policy provides guidance for applicants, drivers and operators to assist them with the application processes and operation of their businesses. This guidance, application forms and current fees are also available on the council's website. In order to ensure that the most up to date version is used, applicants, drivers and operators should not store these forms on their own system but should download the latest version of a form when it is required.

1.3 Role of hackney carriages and private hire vehicles

Hackney carriage and private hire vehicles have a specific role to play in an integrated transport system. They are able to provide demand responsive services in situations where public transport is either not available (for example in rural areas, or outside 'normal' hours of operation such as in the evenings or weekends), and/or for those with mobility difficulties.

1.4 Best practice guidance and legislation

The Department for Transport (DfT) has national responsibility for hackney carriage and private hire legislation in England and Wales. As a result of the then Office of Fair Trading producing a report on the UK hackney carriage and private hire trade, the DfT was asked to produce best practice guidance for local licensing authorities. The latest guidance was issued in March 2010. In addition, the Equality Act 2010 has implications for both hackney carriage and private hire operators in respect of disabled access to vehicles and further guidance and directions are expected on this matter.

The DfT guidance is directed at local authorities in England and Wales with responsibility for hackney carriage and private hire licensing who will "decide for themselves the extent to which they wish to make use of it or adapt it to suit their own purposes". The document recognises that licensing authorities may reach their own decisions both on overall policies and on individual licensing matters, in the light of their own circumstances. We have taken account of the DfT guidance and the Local Government Association's handbook for councillors on taxi and private hire licensing to shape this policy.

This policy also takes account of the legislative basis of the council's taxi licensing powers, contained in the Town Police Clauses Act 1847 and 1889, the Public Health Act 1875, the Local Government Act 1972 and the Local Government (Miscellaneous Provisions) Act 1976 as amended, which the council have adopted.

1.5 Costs and benefits of licensing policies

The DfT guidance stresses that licensing requirements which are unduly stringent are likely to unreasonably restrict the supply of hackney carriage and private hire services by increasing the cost of operation or by otherwise restricting entry to the trade. We recognise that too restrictive an approach may well work against the public interest and can have safety implications.

We will ensure that each of the various licensing requirements is properly justified by the risk it seeks to address. The financial or other cost of a particular requirement, in terms of its effect on the availability of transport to the public, should at least be matched by the benefit it will provide to the public.

The cost of administering the policy including the cost of enforcement where the law allows will be met from licensing fees. In adopting this policy, we will try to strike a balance between the financial interests of the trade, public safety and the delivery of other council plans and policies.

1.6 Safeguarding

Human Trafficking is a crime relating to moving a vulnerable person from one place to another against their will. Child Sexual Exploitation is the sexual abuse of young people under 18 and usually involves relationships where young people receive something (food, accommodation, drugs, alcohol, affection, gifts, money) as a result of performing sexual acts. Criminals often use licensed vehicles and drivers to move these vulnerable people. Licensed drivers are the eyes and ears of their communities through the work they do and the contacts they have.

Licence holders can operate in positions of trust and it is vital that any relevant information about safeguarding issues is shared so that individuals are blocked from becoming taxi operators or holding any other kind of licence in different council areas across the county/country. Without effective information sharing, there is a real risk of unsuitable people being granted licences to operate which puts people at risk. We will share relevant information with Police and other authorities to protect children and vulnerable adults.

Licensed drivers' and operators' ability to spot the signs of human trafficking and having the knowledge of how to report their concerns can be a major help in preventing this crime. One sign on its own may not be significant, but several signs together should give cause for concern.

If the drivers and operators think that a passenger;

- a) does not know their home or work address
- b) allows others to speak for them when addressed directly
- c) lives or travels in a group, sometimes with other persons who do not speak the same language or not similar age
- d) are collected very early and/or returned late at night on a regular basis
- e) may have poor clothing for the work they are doing, and/or a lack of safety equipment
- f) they may look thin, ill or depressed
- g) has no cash of their own
- h) be known to work at a brothel and be frequently moved from one site to another.

They should contact Gloucestershire Constabulary by calling 101 (or if an emergency 999) or Crimestoppers on 0800 555 111

1.7 Enforcement

The DfT guidance is clear on the necessity of enforcement to maintain high standards of public safety. All enforcement schemes need to be proportionate and transparent. While the ultimate authority is the court, the expectation is that enforcement will be carried out by officers overseen by the Licensing Committee and their associated sub-committees.

Our enforcement system will need to deal with persistent, low level breaches up to serious, possibly, criminal behaviour. There needs to be a grade of sanctions from informal advice and warnings through to suspension and revocation of licence. It is clear that the majority of enforcement will be for relatively minor offences or breaches and will be undertaken by the officers.

1.8 Tariff

We operate a council set hackney carriage tariff. The tariff is a maximum figure that hackney carriage drivers can charge based on a range of factors including time of day or night and special occasions such as bank holidays. The tariff does not apply to private hire vehicles or pre-booked journeys where the cost is agreed in advance. Drivers may charge any amount for a journey provided it does not exceed the fare on the meter. Hackney carriage vehicles must clearly display the tariff card within the vehicle.

2. Hackney Carriage and Private Hire Vehicles

2.1 Limitation of numbers

We will not set a limit on the number of licensed hackney carriages. No powers exist to limit the number of licensed private hire vehicles.

2.2 Specifications and conditions

We have adopted minimum standards that will be applied to all licensed vehicles. These are set out in Appendix A for hackney carriages and Appendix B for private hire vehicles.

We may impose such conditions that are reasonably necessary when granting hackney carriage or private hire vehicle licences. Licensed vehicles provide a service to the public therefore; we will only license vehicles suitable for this purpose. It is important to set criteria for the external and internal condition of the vehicle, provided that these are not unreasonably onerous, to maintain high standards within the trade.

We can licence vehicles for the carriage of up to eight passengers provided that there is compliance with the specifications and conditions. We will determine 'novelty vehicles' on a case by case basis.

We will not license purpose built hackney carriage vehicles as private hire as this can confuse members of the public. We will not licence any vehicle with a 'Q' plate registration as 'Q' plates are issued for vehicles which are either not originally registered in the UK and proof of age was unavailable at registration or for vehicles that have been built using a significant proportion of used parts.

2.3 Maximum age of vehicles

The DfT guidance states that it is possible for an older vehicle to be in good condition and that the setting of an age limit beyond which the licensing authorities will not license vehicles may be arbitrary and disproportionate. We will not apply age restrictions to vehicles meeting the required standards.

2.4 Vehicle testing

The DfT guidance recognises that an annual MOT test for licensed vehicles of whatever age is appropriate. More frequent tests are not recommended, except for older vehicles.

A vehicle will require an MOT test, from any certified testing station, before a licence is granted and the MOT must be valid for at least 11 months. Officers may inspect vehicles that have not previously been licensed before a licence is granted.

Hackney carriage and private hire vehicles will be tested once each year until six years old. Brand new registered vehicles that have less than 5000 miles will not have to undertake a vehicle test. If the vehicle is over six years old when a licence is issued it will be required to undertake two MOT tests each year falling at the start of the licence and six months into the licence.

Officers may request that work identified on the MOT test is undertaken before a licence is granted, or within a certain time frame of the licence being granted. If vehicles are found to be in breach of licence conditions, officers may require the proprietor to bring all licensed vehicles, or vehicles used by the operator or company, to the council for inspection.

2.5 Signage

Members of the public can often confuse private hire vehicles with hackney carriages, without realising that private hire vehicles are not available for immediate hire or allowed to be hailed in the street. It is therefore important that the public are able to easily distinguish each type of vehicle.

For this reason private hire vehicles must not display any roof signs and hackney carriage vehicles must display roof signs as specified elsewhere in the policy.

Both hackney carriages and private hire vehicles must display a licence plate on the outside rear of the vehicle. We may use different colours and different styles for hackney carriage and private hire vehicles.

The external licence plate shall be securely fixed to the outside and rear of the vehicle either by direct fixing, e.g. screw, bolt or rivet, or on a secure bracket. Temporary fixing such as magnets or Velcro[®] is not allowed.

2.6 Advertising on licensed vehicles

Advertising will be permitted on all licensed vehicles in accordance with the vehicle specifications and conditions. Complaints about unsuitable or offensive advertisements may be referred to the officers.

2.7 Plate exemption for private hire vehicles

Private hire vehicles which are used for contract work for at least 75 per cent of the time can be exempted from displaying a plate. The operator's records for these vehicles must prove that the required amount of contract work is being carried out. We will also require evidence as to why a plate exemption is required. Where an exemption is granted, the rear licence plate must be carried in the boot of the vehicle at all times. Vehicles given this exemption will normally be executive type cars. We will determine applications for exemption on a case by case basis. The plate exemption must be applied for on an annual basis on the anniversary of the renewal of the vehicle licence. Operators and drivers should not automatically assume that when licensing a new vehicle to replace an existing plate exempted vehicle or renewing an existing plate that the plate exemption will continue.

The licence fee payable for plate exemption is subject to annual review and will be published together with other council licensing fees.

2.8 Security and CCTV

There is no mandatory requirement for CCTV system in the licensed vehicles. Operators and drivers may install such equipment with prior written notification being supplied to the Council. Use of CCTV must be clearly indicated by signs in the vehicle including contact details for the system manager/operator. All such equipment and images must be operated in accordance with the Data Protection Act 1998. It is the responsibility of the driver/operator to ensure compliance.

No audio, video or recording systems shall be installed or operated in the vehicle without prior written notification being supplied to the Council..

2.9 Environmental considerations

It is important that emissions from hackney carriages and private hire vehicles are reduced as far as possible. In the event that central government introduces measures to control emissions or local emission controls were to be required by an air quality action plan the council may review the policy on emission standards for licensed vehicles.

2.10 Stretched limousines and novelty vehicles

The number of stretched limousines being imported, particularly from the United States, has been increasing. They are generally used for private hire work and special occasions.

We are sometimes asked to license stretched limousines as private hire vehicles. We will assess licence applications for these vehicles in accordance with the 'novelty vehicles specifications' set out in Section 2 of the Appendix B.

Where a vehicle has been imported from another country, we may require DVSA approved certification prior to licensing approval. Due to the individual nature of stretched limousines or novelty vehicles, it will inevitably give rise to issues that would not apply to conventional private hire vehicles and therefore it will be necessary to consider special conditions on any such licence. We will take into consideration the guidance issued by the DfT, 'Guidance for operators of stretched limousines'.

Stretched limousines or novelty vehicles may be granted a private hire vehicle licence provided that they are capable of carrying no more than eight passengers and meet the requirements of the Single Vehicle Approval (SVA) or Individual Vehicle Approval (IVA) certificate.

All applications to license stretched limousines or novelty vehicles as private hire vehicles will be judged on their merits. As these vehicles will not meet the usual vehicle specification, additional documentation and inspection will be needed in order to ensure safety and suitability.

2.11 Funeral and wedding vehicles

There is currently no requirement for a vehicle to be licensed where it is being used in connection with a funeral.

A vehicle does not need to be licensed to be used in connection with a wedding. However, if a licensed hackney carriage vehicle is used for a wedding the licence plate and roof sign must be displayed.

2.12 Livery

There is no requirement for licensed vehicles to be finished in a special livery or appearance. The visual distinction between hackney carriages and private hire vehicles can be achieved by the signage.

2.13 Transfers

A proprietor of a licensed hackney carriage or private hire vehicle may transfer their interest in the vehicle to another person. Under Section 49 of the Local Government (Miscellaneous Provisions) Act 1976, they must ensure that the licensing authority is notified of the new proprietor's name and address within 14 days.

Applications to transfer a licence must be made on the prescribed application form. The licence fee payable for a transfer is subject to annual review and will be published together with other council licensing fees.

2.14 Accidents

Drivers or operators must inform licensing officers when a hackney carriage or a private hire vehicle is involved in a road traffic accident. The accident must be reported regardless of however major or minor. Drivers or operators must report within three working days of the accident occurring and bring the vehicle for inspection if requested by officers. Officers may examine the extent of the damage and determine whether or not the vehicle must be repaired to allow it to continue as a licensed vehicle.

2.15 For hackney carriage vehicles

- a) Hackney carriage roof signs and meters:** A roof sign must be displayed on the top of the vehicle showing the word 'Taxi'. The sign shall be controlled by the meter and shall be illuminated when the vehicle is available for hire. The design of the roof sign shall be approved by the licensing officers. Taxi meters may be tested for accuracy at the discretion of licensing officers.

b) Use of hackney carriage vehicles: When an applicant wishes to licence a vehicle as a hackney carriage, we will need information, pursuant to section 57 of the Local Government (Miscellaneous Provisions) Act 1976, as to whether the applicant intends to use the vehicle to stand or ply for hire in the council's area and also if the applicant intends to use the vehicle entirely or predominantly remotely from the council's area on a pre-booked basis. Whilst each application will be considered on its own merits, we will have regard to the geographic location of an applicant's home and business address. If we have a reason to believe that the hackney carriage is to be used entirely or predominantly remotely from the council's area on a pre-booked basis, then the application for a licence will normally be refused or existing licence may be suspended or revoked.

2.16 Grant and renewal of hackney carriage and private hire vehicle licences

Hackney carriage and private hire vehicle licences will be granted for a period of one year. We may issue licences for a shorter period where it may be necessary, we will issue shorter licences on case by case basis.

It is the proprietor's or operator's responsibility to ensure that vehicle tests are carried out in sufficient time and that insurance, vehicle registration documents and the annual fee are available for processing in time for the issue of a licence.

We will only accept complete applications comprising all the necessary documents and checks. Incomplete or missing documentation may result in the application being returned to the applicant. If an application is received late, the licence may expire before a new one can be issued. The vehicle will then be unlicensed and must not be used as a hackney carriage or private hire vehicle.

Applications for a hackney carriage or private hire vehicle licence must be made on the prescribed application form, including any electronic forms and in accordance with our application procedure. Relevant forms and documents are available on our website together with guidance to assist in the completion of the application.

The licence fees payable are subject to annual review and will be published together with other council licensing fees.

2.17 Change of details

The proprietor must notify licensing officers in writing of any change of address or telephone number during the period of the licence within seven days of the change taking place.

3. Hackney Carriage and Private Hire Drivers

3.1 Age and experience

We will not impose either a maximum or minimum age limit for drivers. Applicants must have held a DVLA licence for at least three years prior to applying for a licence to drive a hackney carriage or private hire vehicle.

3.2 Knowledge test and spoken English proficiency

Hackney carriage drivers need a good working knowledge of the area for which they are licensed. The law requires that members of the public are transported by the most direct and therefore cheapest route. Hackney carriages can be hired immediately, directly with the driver, at hackney carriage stands or hailed on the street. The DfT recognises that most licensing authorities require prospective hackney carriage drivers to pass a test of local topographical knowledge as a condition of gaining a licence.

In order to maintain the high standards expected of drivers, we will not issue a licence to drive a hackney carriage vehicle unless the applicant has passed a knowledge test of the area covering local geography.

Applicants are given their result as soon as possible and always within one week. If the applicant has passed the test, their application can proceed to the next stage. If they have failed the test they are given feedback and a re-sit is booked as soon as the applicant requires and there is a place available.

There is a fee to sit and re-sit the test and this is published separately together with the other council licensing fees. No applicant may sit the test more than five times in any 12 month period except in exceptional circumstances.

There has been an increase in the number of applications for hackney carriage and private hire drivers' licences from people whose first language is not English. Most communication between drivers and passengers is spoken so it is essential that all candidates have a reasonable standard of spoken English.

Licensing officers will decide spoken English proficiency and if a new applicant needs to undergo additional testing. New applicants for hackney carriage and private hire driver's licence must demonstrate a basic level of spoken English or they will be required to pass a prescribed independently administered English test prior to their application for a private hire or hackney carriage driver's licence being considered. Candidates will be responsible for all the costs associated with this additional testing.

3.3 Driving proficiency, qualifications and giving assistance

We have concluded that the standard DVLA driving test provides sufficient evidence of driving competency for the drivers of hackney carriage and private hire vehicles. There are nationally recognised vocational qualifications for the hackney carriage and private hire trades. These cover customer care, including how best to meet the needs of people with disabilities and there may be advantages in encouraging drivers to obtain one of these qualifications in the future. We encourage such training as this enhances the standing of the trade as one with recognised qualifications to demonstrate competence.

A driver who has accumulated nine or more points on their DVLA licence or who have complaints proven against them about the standard of their driving may be required to pass the Driving Standards Agency Taxi and Private Hire Drivers Assessment in order to remain licensed by the council.

3.4 Safeguarding training

The council has duty to protect those who are vulnerable. We are committed to safeguarding and promoting the welfare of children, young people and vulnerable adults and we expect the taxi and private hire trade to share this commitment.

All licensed drivers must demonstrate successful completion of a prescribed safeguarding training within six months of first being licensed or within 12 months of renewing their licence.

The fee for this training will be published separately together with the other council licensing fees.

If an applicant or existing licensed driver can show they have passed adequate similar training will be exempted from this requirement. Existing drivers who successfully completed the safeguarding training organised by the council are also exempt from this requirement.

Drivers who fail to comply with this requirement will have their licence suspended until they demonstrate that they have met this requirement.

3.5 DVLA driving record check

Before the grant or renewal of a driver's licence, the applicant will be required to submit to a DVLA check. Applicants can share their driving records by using an electronic self-service system. There is no fee for the self-service system. However, applicants will pay a fee if they do not wish to use the self-service system. We will require a mandate for release of information under the data subject access provisions of the Data Protection Act 1984, section 21 (1) and (2), from the DVLA for every application.

This check brings to light any driving offences committed that may not appear on the licence submitted and which should have been declared on the application form.

3.6 Medical examination

The DfT recognises that it is good practice for medical checks to be made on each driver as a condition for the initial grant of a licence and for each renewal. Adopting 'Group 2' medical standards as applied by DVLA to the licensing of lorry and bus drivers and applying standards to hackney carriage and private hire drivers is considered to be best practice by DfT guidance.

A medical examination carried out by a GP at the surgery the applicant is registered at is required before the grant of a driver's licence in order to assess an applicant's fitness to drive a licensed vehicle. A DVLA Group 2 standard of medical fitness for professional drivers will be required.

A request form for a medical examination, which must be presented to a GP at the applicant's registered GP surgery, is obtainable from the licensing team. The applicant will be responsible for paying the fee for the examination to their GP surgery. On completion of the examination, a confidential report will be submitted to the council. The GP completing the medical examination will be required to certify that they have checked the applicant's personal medical records before completing the medical examination.

The DVLA Group 2 medical standard stipulates that over the age of 45 drivers will require a medical every five years. Drivers aged 65 and over, or those with relevant medical conditions, will require an annual examination. More frequent checks will be required if the medical practitioner thinks it is necessary. Holders of current PSV and/or HGV licences who can produce proof of a current medical examination, not more than one month old, will not need to undergo a further medical examination before licensing or re-licensing.

Licence holders must advise the licensing team, in writing, of any deterioration in their health that may affect their driving capabilities. If there is any doubt as to the medical fitness of the applicant, we may require the applicant to undergo a further medical examination by a medical practitioner appointed by us. In these circumstances we will pay for the medical examination. Where there remains any doubt about the fitness of any applicant, the applicant will be brought before the licensing sub-committee and they will review the medical evidence and make the final decision.

3.7 Disclosure and Barring

A criminal record check on a driver is an important safety measure. The DfT considers that such checks should be at the level of enhanced disclosure through the Disclosure and Barring Service as these disclosures include details of spent convictions and police cautions.

The Rehabilitation of Offenders Act 1974 and associated amendments sets out the period after which a conviction/caution/warning would be regarded as 'spent' and not normally require disclosure of that conviction. However, in 2002 the Rehabilitation of Offenders Act 1974 was amended so as to exclude hackney carriage and private hire drivers from the 1974 Act. This was because the driving of hackney carriages and private hire vehicles was listed as a 'Regulated Occupation' in relation to which questions may be asked as to the suitability of individuals to be granted a licence.

Applicants for such licences must therefore disclose all convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders, traffic offences and fixed penalty notices, including those that would previously have been regarded as spent under the 1974 Act.

An Enhanced Disclosure and Barring Service disclosure certificate will be required before a licence to drive a hackney carriage or private hire vehicle is granted and then every three years. We will accept portability of DBSs where it is done through an approved DBS body and the workforce category is the same as the workforce category for hackney carriage and private hire drivers. We will only accept DBS certificates issued within 28 days prior to the date we receive the DBS certificate.

Where the applicant is registered with the DBS Update service, we will accept the DBS certificate regardless of how long ago it was issued and we will carry out an electronic check in accordance with the DBS procedures. If the electronic check reveals that there is a change since the last DBS certificate was issued, we will require a new DBS certificate.

We may request another disclosure at any time if a further check is considered necessary. As a further safeguard a regime of random Enhanced DBS checks on drivers may be carried out. If a driver is given notice to undertake a random DBS check by the council they must do so within 28 days of the request.

There will be a condition on the licence to advise drivers that their hackney carriage or private hire driver's licence may be suspended or revoked if any relevant information is later found on the DBS disclosure.

We are bound by rules of confidentiality, and we will not divulge any information to third parties. The applicant for a DBS disclosure is sent a disclosure report to their home address; this must then be shown to the licensing team. We will manage information arising from disclosures in accordance with the DBS's codes of practice.

Licensed drivers must report all new convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) in writing within seven working days.

Currently the DBS only has details of offences committed in England, Scotland, Wales, Northern Ireland, Jersey, Guernsey, the Isle of Man and Gibraltar, therefore if an applicant has lived in countries other than these an authenticated certificate of good conduct from the relevant embassy/ies will be required. If an applicant submits a certificate of good conduct in a language other than English, we may appoint a translator and the translation fee will be passed on to the applicant. The application will not be considered complete if this fee has not been paid. Most embassies produce the certificate in English.

3.8 Relevance of convictions and cautions

When assessing whether an applicant is a 'fit and proper person' to hold a licence, or whether an existing licence holder is still a 'fit and proper person' to continue to hold a licence, we will consider each case on its merits. It will take account of convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders, and fixed penalties (including traffic offences) whether spent or unspent, but only in so far as they are relevant to an application for a licence. The licensing officer will assess the information provided, in accordance with the licensing policy, and decide whether the applicant is a 'fit and proper person' to hold a licence or whether the existing licence holder is still a 'fit and proper person' to continue to hold a licence. Where the applicant meets the requirements of the policy and the licensing officer concludes that the applicant is a 'fit and proper person' the licensing officer has the delegated authority to approve the application.

Where the licensing officer cannot be satisfied that either the applicant or an existing licence holder is a fit and proper person the matter may be referred to the licensing sub-committee. Where it is necessary to immediately suspend or revoke in the interest of public safety, the licensing officer will recommend the Deputy Chief Executive to immediately suspend or revoke an existing licence under their delegated authority.

When dealing with convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders, and fixed penalties (including traffic offences), we will take into account:

- a) whether convictions are spent or unspent
- b) the nature of the offences
- c) the age of the offences
- d) whether the offences are relevant
- e) the number of offences.

Guidance about specific offences is given in Appendix E. In general terms, if the offence is recent and relevant to public safety, the council is;

- a) less likely to approve the application for a new licence, and
- b) more likely to revoke an existing licence.

Applicants can appeal to their local magistrate's court against a refusal to grant or decision to suspend or revoke the licence.

Applicants or existing licence holders may be referred to the licensing sub-committee where the applicant/existing licence holder's record includes one or more of the following:

- a) any term of imprisonment or custody
- b) any conviction for a violent or sexual offence, or dishonesty which is of a serious nature
- c) any serious motoring offence, such as dangerous driving, driving whilst disqualified, or drink driving
- d) nine or more points on their DVLA Driving Licence.

3.9 Proof of right to work in the UK

Employers are liable to a civil penalty of up to £20,000 per illegal worker if they knowingly employ someone who does not have the right to work in the UK.

Whilst not being the employer of hackney carriage or private hire drivers, it is necessary for licensing authorities to check on an applicant's right to work before granting a hackney carriage/private hire driver's licence. We agree that this is not only good practice but helps protect the income of those currently licensed who do have the right to work.

We will refer to the latest Government guidance when dealing with applicants and therefore all applicants will have to prove their right to work in the UK by supplying the relevant documentation as detailed in the guidance.

If an applicant is unable to provide satisfactory proof of their right to work in the UK, there will be no option other than to refuse to grant or refuse to renew the licence, or if circumstances came to light during the duration of a licence, to revoke it. To issue the licence may be regarded as condoning the offence and assisting the applicant to gain employment to which they are not entitled.

All current licensed drivers if required will be asked to prove their right to work on renewal of their licence. The right to work will normally only need to be proved once. Applicants may only be licensed until their right to work will expire.

If after referring to the relevant Government guidance, licensing officers are still unsure about an applicant's right to work in the UK, they will discuss the applicant's documentation with the Home Office. If it transpires the applicant is illegally in the UK (due to illegally entering or overstaying for example) council officers will assist the UK Border Force, Immigration Office or police in their enquiries as necessary.

3.10 Behaviour and conduct of drivers

Adopting a Code of Good Conduct for hackney carriage and private hire drivers serves to promote the council's licensing objectives.

The standards expected of licensed drivers are set out in the Code of Good Conduct that is included within the conditions attached to the driver's licence and set out at Appendix A.

Failure to comply with any aspect of the Code of Good Conduct will not necessarily result in enforcement action. However, breach of the code is an indicator which licensing officers will use to help decide upon subsequent enforcement action. This may result in enforcement action by licensing officers or if necessary, by the licensing sub-committee. Repeated breaches following education or warnings may lead

to more serious consequences including if necessary, refusal to renew, suspension or revocation of licences.

3.11 Fit and proper

'Fit and proper person' is not defined in any of the legislation but is key when determining a driver application or renewal. The following statement is commonly used as a guide to clarifying the meaning. 'Would you allow your son, daughter, mother, spouse or other person you care about get into this vehicle with this person alone?'

This statement was confirmed in discussion by Silber J. in the case of Leeds City Council v Hussain (2002) which surrounds the suspension of a driver;

'... the purpose of the power of suspension is to protect the users of licensed vehicles and those who are driven by them and members of the public. Its purpose is to prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their employment to abuse or assault people'

Officers and the licensing sub-committee will bear the above statement in mind when determining applications, renewals and when making enforcement decisions. Other factors such as safeguarding matters will also be considered on a case by case basis.

3.12 Grant and renewal of licences

Licences to drive hackney carriage and private hire vehicles (driver's licence) will generally be granted for three years. We may issue licences for a shorter period where it may be necessary, we will issue shorter licences on case by case basis.

To allow sufficient time for documents to be processed, applicants should ensure to submit their complete application, including the fee, at least eight weeks before expiry of a driver's licence.

We will aim to send a reminder letter to drivers twelve weeks before the expiry of an existing licence. Drivers are reminded that we are not obliged to do this and the responsibility of ensuring licences and DBS disclosures do not expire remains with the licence holder. If a DBS disclosure has not been issued in time we may only renew a driver's licence if the applicant has returned their application form for the DBS disclosure in the time specified on the renewal letter.

We may refuse to grant licences where the application is missing any of the necessary documentation. Incomplete or missing documentation may result in the application being returned to the applicant. If an application is received late, the licence may expire before a new one can be issued, therefore the driver will be unlicensed during which time it will be illegal for them to drive a licensed hackney carriage or private hire vehicle or to use an unlicensed vehicle for the carriage of passengers for hire and reward.

Applications for a hackney carriage/private hire driver's licence must be made on the prescribed application form, including any electronic forms.

Once we have the complete application, we will consider it on its own merits taking into account the driver's previous history of behaviour to determine if they meet the 'fit and proper person' criteria.

The licence fees payable is subject to annual review and will be published together with other council licensing fees.

3.13 Change of details

Drivers must notify us in writing within seven days of any change of address or telephone number during the period of the licence.

4. Private Hire Operators

4.1 Requirements and obligations

Any person who operates a private hire service (who is not a hackney carriage proprietor allowing hackney carriages to be used for private hire) must apply for a private hire operator's licence. The objective in licensing private hire operators is the safety of the public. Best practice in respect of the controls required over private hire operators is to ensure that the costs of any licensing requirements are commensurate with benefits that they seek to achieve.

A private hire vehicle must only be dispatched to a customer by a licensed private hire operator. Such a licence permits the operator to invite or accept bookings for a private hire vehicle. Private hire operators must ensure that every private hire vehicle that they operate is licensed by the same council who issued them with the operator's licence and that it is driven by a person who holds a private hire driver's licence issued by the same council.

Applicants must apply for an operator's licence using the prescribed form, including any electronic forms and submit the correct fee. All new private hire operators must undergo a Basic Disclosure (if the operator is also a licensed driver with the council the requirement for the DBS disclosure is waived as the driver will have been subject to an Enhanced Disclosure). We will then decide whether the applicant is a fit and proper person to hold such a licence. The applicant must prove that they are entitled to work within the UK. For details of the requirement and guidance please see paragraph 3.9

If an applicant is unable to provide satisfactory proof of their right to work in the UK, there will be no option other than to refuse to grant or refuse to renew the licence, or if circumstances came to light during the duration of a licence, to revoke it. To issue the licence may be regarded as condoning the offence.

4.2 Criminal record checks

Private hire operators are not exempt from the Rehabilitation of Offenders Act 1974. We will require a Basic Disclosure and Certificate of Good Conduct (if required) before a licence is granted and then every five years. Where the private hire operator is trading as a limited company we may also require the directors and company secretary to undertake a Basic Disclosure check.

We will consider each application on its own merits once the application form and supporting documents are complete.

4.3 Conditions

Private hire operators' licences are issued with conditions set out in Appendix B. We may impose additional conditions where necessary. If multiple vehicles are found to be in breach of licence conditions or there is a pattern of breaching the licensing requirements and conditions, officers may require the operator to bring all licensed vehicles to the council for inspection.

4.4 Record keeping

Section 56(2) and (3) of the Local Government (Miscellaneous Provisions) Act 1976 requires operators to record specific information. The information shall be kept in a suitable book or on a computer or any other similar device. If using a book the pages must be numbered consecutively and the operator shall enter or cause to be entered before commencement of each journey, the following particulars of every booking accepted:

- a) the time and date of the booking
- b) the name of the hirer
- c) the fare quoted
- d) how the booking was made, e.g. telephone or email and the time

- e) the time of the proposed pick up
- f) the point of pick up and drop off
- g) the registration or plate number of the vehicle allocated for the booking and the name of the driver.

Operators are legally required to keep records in respect of all bookings, vehicles and drivers, for a period of one year as set out in the private hire operator's conditions.

Operators who maintain computerised records will be required to give access to these records to licensing officers upon request in order that the licensing officers can carry out their enforcement duties. Operators will also be required to provide adequate instruction to licensing officers in order to enable them to interrogate the computerised records to gather the information they require to carry out their enforcement duties.

4.5 Insurance

Operators are required to provide evidence that public liability insurance to the value of £5 million has been taken out for premises that are open to the public (e.g. waiting rooms).

4.6 Address from which an operator may operate

The address used on the operator's application form must be the one where the invitation and acceptance of bookings take place. This will be the premises where the records referred to above are kept and at which they may be inspected by licensing officers. This will also be the address at which the vehicle(s) will normally be kept and be available for inspection.

We cannot grant a private hire operator's licence for an operator with an operating base that is outside the council's areas. It will be the responsibility of the operator to ensure that necessary planning consent exists for the operational address to be used for that purpose.

4.7 Sub-contracting

A private hire operator may sub-contract a booking to another licensed private hire operator in accordance with relevant legislation. A record of who the booking was sub-contracted to and when must be made in accordance with the licence conditions.

4.8 Grant and renewal of licences

Private hire operator's licences will be granted for a five year period. We may issue licences for a shorter period where it may be necessary. We will issue shorter licences on case by case basis.

Whilst we will aim to send a reminder letter to the current operator before their existing licence expires, operators are reminded that we are not obliged to do this and the responsibility for ensuring licences do not expire remains with the licence holder.

If a disclosure has not been issued in time, we will only renew an operator's licence if the applicant has returned their application form in the time specified on the renewal letter. However, we may place a condition on the licence that private hire operator's licence may be suspended or revoked if any relevant information is later found on the disclosure.

We may refuse to grant licences where the application is missing any of the necessary paperwork. Incomplete or missing documentation may result in the application being returned to the applicant. If an application is received late, the licence may expire before a new one can be issued, resulting in it being illegal to operate as no operator's licence would be in force.

Applications for operator's licences must be made on the prescribed application form, including any electronic forms. The licence fees payable are subject to annual review and will be published together with other council licensing fees.

4.9 Change of details

The operator must notify the council in writing within seven days of any change of address, (whether this is a home address or the operating address) or change of telephone number or any other details during the period of the licence.

APPENDIX A: Licence conditions and specifications for hackney carriage vehicles

Hackney carriage vehicle conditions

1. A hackney carriage proprietor is an owner or part owner of a vehicle, or where a vehicle is subject to a leasing contract, hire agreement or hire purchase, a proprietor is the person in possession of the vehicle under the agreement. In both cases the proprietor requires a hackney carriage proprietor's licence from the council, before they are legally entitled to use the vehicle for plying for hire.
2. Licences can be obtained by making an application to the council. Each applicant must submit an application in respect of every vehicle for which a licence is required. The following details specify the standard minimum requirements for vehicles licensed for public hire or reward by the council. They have been set down for the purposes of indicating to any prospective licence holder what will be acceptable, under delegated powers, to licensing officers and this should be borne in mind before a vehicle is purchased. Any vehicle presented for licensing which does not comply may only be accepted after consideration of the merits of the application by the licensing sub-committee. The applicant will, in these circumstances, be required to submit a persuasive and substantial case for departing from the normal policy.

Specification

3. The vehicle must meet the following specification:
 - a) the vehicle must be capable of carrying not fewer than four passengers and no more than eight.
 - b) each passenger seat shall be fitted with a seat belt. No seats may be side facing.
 - c) the seat provided for each passenger will have a minimum width of 16 inches (40.6 cm) measured across its narrowest part.
 - d) each passenger shall have direct access to a door without the need to remove or completely fold flat any other seating in order that passengers may access their seat easily and escape without delay in case of emergency. The council will consider vehicles that have seats that 'tilt' forward by a single operation. If this type of seat is fitted the driver must inform the passengers of the operation of the seats before a journey commences.
 - e) the vehicle will be right hand drive.
 - f) the vehicle will have four road wheels.
 - g) the vehicle will have an engine with a capacity of at least 990cc. including vehicles badged by the manufacturer as '1.0' models. Electric vehicles fitted with 'range extender' technology may be exempt from this restriction.
 - h) the vehicle in addition to the driver's door, will have three doors each of which must be fitted with an efficient handle, lock and window operation to allow access and egress for passengers.
 - i) the vehicle must have a boot or luggage compartment which provides sufficient space to carry a reasonable amount of luggage for the total capacity of the vehicle.
 - j) estate cars must have a guard/cover fitted to prevent luggage entering the passenger compartment.
 - k) no alteration to the manufactures specification for the vehicle, including a change of or additional fuel type, shall be carried out except with the prior written approval of the council.
 - l) the front windscreen, front and rear windows must have a visible light transmission (VLT) of not less than 75 per cent so that the passengers can be seen from the outside of the vehicle. Only vehicle manufacture tints are permitted on the vehicle.

Equipment

4. The vehicle must carry the following equipment:

- a) an in-date suitable and efficient fire extinguisher (1.0 kg dry powder or larger foam fire extinguisher) to meet BS EN 3 1996 (BS 5423), maintained at all times. It shall be securely fixed in the vehicle and be readily visible and available for immediate use in an emergency. Each driver of a vehicle must familiarise themselves with the use of the fire extinguisher contained in the vehicle.
- b) a spare wheel suitable for immediate use and properly maintained; if the spare wheel is of the temporary space saver type, it may only be used to complete the particular journey or hiring the vehicle is engaged on when the wheel change is necessary and vehicles that have modern technology may be exempt from this condition at the discretion of the council.
- c) a jack and tools for changing the wheels
- d) a spare auto lamp kit applicable to the vehicle and the taxi sign
- e) a warning triangle
- f) a torch
- g) an in-date first aid kit.

Condition of vehicle

- 5. Drivers shall carry out a visual inspection of the vehicle at the beginning of the day before they start working. The interior and exterior of the vehicle shall be maintained in a clean and proper manner to the satisfaction of the council and in particular the exterior of the vehicle shall be free of large dents, rust or un-repaired accident damage and shall at all times have uniform paintwork equivalent to that applied by the manufacturer. The interior shall be free of stains, spills, tears and the seats must function in accordance with the original manufacturer's specification. The vehicle will comply with all relevant statutory requirements applicable to the class of vehicle to which it belongs including, but without prejudice to the Motor Vehicle (Construction and Use) Regulations.

Insurance and other documentation

- 6. The proprietor shall not use the vehicle, nor permit it to be used, as a hackney carriage vehicle if it does not have a policy of insurance, or such security as complies with the requirements of Part VI of the Road Traffic Act 1988, covering the use of the vehicle to carry passengers for hire or reward/public hire. The proprietor must produce when requested a valid certificate of insurance. On renewal of the insurance a copy of the new certificate must be provided to the council. The council will only accept insurance from UK insurance bodies that are registered with the Motor Insurance Bureau.
- 7. The proprietor must produce when requested the vehicle registration document, evidence that the vehicle has a valid MOT certificate and evidence that the vehicle has a valid vehicle excise licence.

Licence plates

- 8. The external licence plate supplied by the council shall be securely fixed to the outside rear of the vehicle either by direct fixing, e.g. screw, bolt or rivet or on a secure bracket. The penalty for failing to display a licence plate is a fine not exceeding Level 3 on the Standard Scale. The licence plate remains the property of the council at all times. If required to do so at any time the licence holder must return the plate to the council within seven days.

Roof sign and advertisement requirements

- 9. There is no exception to the roof sign unless the vehicle is a London style cab or other similar vehicle which has a built in taxi roof sign.
- 10. Advertisements are permitted on the interior of purpose built hackney carriages on the underside of the tip up seats and across the bulkhead above the dividing glass partition only. The permitted sizes are as follows:
 - a) bulkhead 60cm x 8cm
 - b) tip up seat 33cm x 30.5cm.

11. No advertisement may be placed on the dividing glass partition other than notices approved by the council.
12. Advertisements are not permitted on the interior of non-purpose built hackney carriage vehicles, without prior written permission from the council.
13. Advertisements are permitted on the exterior of hackney carriages.
14. Proprietors may display a full livery and/or vehicle 'body-wrap'.
15. Operators are also permitted to display the following on the vehicle:
 - a) a sign indicating membership of the AA, RAC or other similar motoring organisation
 - b) a first aid kit sticker
 - c) any other material supplied by government or a government organisation or corporation with the permission of the council.

Audio, video or surveillance systems

16. No audio, video or recording systems shall be installed or operated in the vehicle without prior written notification being supplied to the council.

Smoking

17. No smoking is permitted in the vehicle by either the driver or passengers. The vehicle must comply with The Smoke-free (Exemptions and Vehicles) Regulations 2007 (S.I. 2007/765).

Meters/fare card

18. All hackney carriage vehicles shall be fitted with a taximeter compliant with the Measuring Instruments (Taximeters) Regulations 2006 (S.I. 2006/2304). The taximeter shall be maintained in a sound working condition at all times. The taximeter shall be set for the current maximum tariff agreed by the council (or can be set at a lower tariff) and shall be sealed by the approved testing stations to prevent unauthorised adjustment of that meter. Hackney carriage proprietors and drivers shall ensure the 'For Hire' sign or other illuminated sign is extinguished when the fare commences and the taximeter is brought into operation.
19. The taximeter must:
 - a) be of the clock calendar type and change according to the wording of the council's agreed current maximum fare tariff or a lower tariff set by the operator
 - b) not be altered or tampered with except with the approval of the council and must be retested by one of the council's approved testing stations if it is altered. All openings shall be sealed with a 'tamper evident' seal supplied by the council.
 - c) show the fare recorded on the taxi meter in plainly legible figures and the word 'FARE' shall be clearly displayed so as to apply to such figures
 - d) be kept securely fixed in such a position so that the fare recorded is visible to all passengers within the vehicle at all times and the figures shall be illuminated for this purpose whenever necessary.
20. A fare card must be fixed in such a position so that the fare to be charged is visible to all passengers within the vehicle at all times, and the figures shall be illuminated for this purpose. The fare card shall clearly display the vehicles licence number.

Wheelchair access

21. If the vehicle is designed or adapted to carry a wheelchair, the proprietor of the vehicle must ensure that the driver has received sufficient training to load and convey wheelchair bound passengers.
22. Any equipment fitted to the vehicle for the purpose of lifting a wheelchair into the vehicle must have been tested in accordance with the requirements of the Lifting Operations and Lifting Equipment Regulations 1998 (S.I 1998/2307). Any such equipment must be maintained in good working order and be available for use at all times.

Trailers

23. Trailers may only be used with the prior written approval of the council. The trailer can only be used in connection with pre booked bookings and cannot be used for plying for hire on a rank or the street.
 - a) the trailer must at all times comply with all requirements of Road Traffic legislation in particular those as laid down in the Road Vehicles (Construction and Use) Regulations 1986 (S.I. 1986/1078)
 - b) the vehicle insurance must include cover for towing a trailer
 - c) a suitable lid or other approved means of enclosure shall be fitted to secure and cover the contents of the trailer whenever in use.

Lost property

24. The proprietor or driver of a hackney carriage must hand in any found lost property to the nearest police station within 48 hours.

Convictions/ change in particulars of proprietor

25. The proprietor shall give notice in writing to the council within seven days of any conviction, warnings, reprimands, cautions, community service orders, restraining orders, and fixed penalties (including traffic offences) or change of their registered particulars, e.g. address or change of name.

APPENDIX B: Licence conditions and specifications for private hire vehicles and operators

SECTION 1

General

1. A private hire vehicle proprietor is an owner or part-owner of a vehicle, or where a vehicle is subject to a hire agreement or hire purchase, the person in possession of the vehicle under the agreement. A private hire vehicle proprietor must obtain a private hire vehicle licence from the council within whose area he or she wishes to trade for each vehicle used for private hire. The vehicle can only be operated under an operator's licence issued by the council.
2. Licences can be obtained by making an application to the council. Each applicant must submit an application in respect of every vehicle for which a licence is required. The following details specify the standard minimum requirements for vehicles licensed for private hire or reward by the council. They have been set down for the purposes of indicating to any prospective licence holder what will be acceptable, under delegated powers, by officers and this should be borne in mind before a vehicle is purchased. Any vehicle presented for licensing which does not comply may only be accepted after consideration of the merits of the application by a panel. The applicant will, in these circumstances, be required to submit a persuasive and substantial case for departing from the normal policy.

Specification

3. The vehicle must meet the following specification:
 - a) The vehicle must be capable of carrying not fewer than four passengers and no more than eight
 - b) Each passenger seat shall be fitted with a seat belt. No seats may be side facing.
 - c) The seat provided for each passenger will have a minimum width of 16 inches (40.6 cm) measured across its narrowest part
 - d) Each passenger shall have direct access to a door without the need to remove or completely fold flat any other seating in order that passengers may access their seat easily and escape without delay in case of emergency. The council will consider vehicles that have seats that tilt forward by a single operation. The driver must explain to the passengers the operation of the seats before a journey commences.
 - e) will be right hand drive
 - f) will have four road wheels
 - g) the vehicle will have an engine with a capacity of at least 990cc including vehicles badged by the manufacturer as '1.0' models. Electric vehicles fitted with 'range extender' technology may be exempt from this restriction.
 - h) will in addition to the driver's door, have three doors each of which must be fitted with an efficient handle, lock and window operation to allow access and egress for passengers
 - i) the vehicle must have a boot or luggage compartment which provides sufficient space to carry a reasonable amount of luggage for the total capacity of the vehicle.
 - j) estate cars must have a guard/cover fitted to prevent luggage entering the passenger compartment
 - k) no alteration to the manufactures specification for the vehicle, including a change of or additional fuel type, shall be carried out except with the prior written approval of the council
 - l) the front windscreen, front and rear windows must have a visible light transmission (VLT) of not less than 75 per cent so that the passengers can be seen from the outside of the vehicle. Only vehicle manufacture tints are permitted on the vehicle
 - m) a private hire vehicle must not be of such design or appearance as to lead any person to believe it is a hackney carriage.

Equipment

4. The vehicle must carry the following equipment:
 - a) An in-date suitable and efficient fire extinguisher (1.0 kg dry powder or larger foam fire extinguisher) to meet BS EN 3 1996 (BS 5423), maintained at all times when the vehicle is licensed shall be securely fixed in the vehicle and be readily visible and available for immediate use in an emergency. Each driver of a vehicle must familiarise themselves with the use of the fire extinguisher contained in the vehicle
 - b) A spare wheel suitable for immediate use and properly maintained; if the spare wheel is of the temporary space saver type, it may only be used to complete the particular journey or hiring the vehicle is engaged on when the wheel change is necessary and vehicles that have modern technology may be exempt from this condition at the discretion of the council
 - c) a jack and tools for changing the wheels
 - d) a spare auto bulb kit applicable to the vehicle
 - e) a warning triangle
 - f) a torch
 - g) an in-date first aid kit.

Condition of the vehicle

5. Drivers shall carry out a visual inspection of the vehicle at the beginning of the day before they start working. The interior and exterior of the vehicle shall be maintained in a clean and proper manner to the satisfaction of the council and in particular the exterior of the vehicle shall be free of large dents, rust or un-repaired accident damage and shall at all times have uniform paintwork equivalent to that applied by the manufacturer. The interior shall be free of stains, spills, tears and the seats must function in accordance with the original manufacturer's specification. The vehicle will comply with all relevant statutory requirements applicable to the class of vehicle to which it belongs including, but without prejudice to the generality of the Motor Vehicle (Construction and Use) Regulations which currently apply.

Insurance and other documentation

6. The proprietor shall not use the vehicle, nor permit it to be used, as a private hire vehicle if it does not have a policy of insurance, or such security as complies with the requirements of Part VI of the Road Traffic Act 1988, covering the use of the vehicle to carry passengers for private hire. The proprietor must produce when requested a valid certificate of insurance. On renewal of the insurance a copy of the new certificate must be provided to the council. The council will only accept insurance from UK insurance bodies that are registered with the Motor Insurance Bureau.
7. The proprietor must produce when requested the vehicle registration document, evidence that the vehicle has a valid MOT certificate and evidence that the vehicle has a valid vehicle excise licence.

Licence plates

8. The external licence plate supplied by the council shall be securely fixed to the outside and rear of the vehicle either by direct fixing, e.g. screw, bolt or rivet, or on a secure bracket. The licence plate remains the property of the council at all times. If required to do so at any time the licence holder must return the plate to the council within seven days. The penalty for failing to comply with this request is a fine not exceeding Level 3 on the Standard Scale. An exemption for private hire vehicles from displaying the plate may be given at the discretion of the licensing officer in accordance with the policy on plate exemption.

Private hire signs and advertising

9. Private hire vehicles may display advertising provided it does not use the words 'Taxi' or 'Cab' that may indicate the vehicle is a hackney carriage. Private hire vehicles may also display:

- a) a sign indicating membership of the AA, RAC or other similar motoring organisation
- b) a sign which requires passengers not to smoke
- c) a first aid kit sticker
- d) any other material supplied by government or a government organisation or corporation with the permission of the council.

Audio/video or surveillance systems

10. No audio/video or recording systems shall be installed or operated in the vehicle without prior written notification being supplied to the council.

Smoking

11. No smoking is permitted in the vehicle by either the driver or its passengers. The vehicle must comply with The Smoke-free (Exemptions and Vehicles) Regulations 2007 (S.I. 2007/765).

Wheelchair access

12. If the vehicle is designed or adapted to carry a wheelchair, the proprietor of the vehicle must ensure that the driver has received sufficient training to load and convey wheelchair bound passengers.
13. Any equipment fitted to the vehicle for the purpose of lifting a wheelchair into the vehicle must have been tested in accordance with the requirements of the Lifting Operations and Lifting Equipment Regulations 1998 (S.I. 1998/2307). Any such equipment must be maintained in good working order and be available for use at all times.

Trailers

14. Trailers may only be used with the prior written approval of the council and subject to the following requirements:
- a) trailers can only be used in connection with private hire bookings
 - b) the trailer must at all times comply with all requirements of Road Traffic legislation in particular those laid down in the Road Vehicles (Construction and Use) Regulations 1986 (S.I. 1986/1078).
 - c) the vehicle insurance must include cover for towing a trailer
 - d) a suitable lid or other approved means of enclosure shall be fitted to secure and cover the contents of the trailer whenever in use.

Plate exemption

15. Vehicles which are used for contract work for at least 75 per cent of the time may be exempted from displaying a plate. The operator's records for these vehicles must prove that the required amount of contract work is being carried out and the council will require evidence as to why plate exemption is required. Such vehicles must display front and rear windscreen badges, which will be provided by the council. These badges will show the details of the vehicle as they appear on the plate. The licence plate will be provided and must be carried in the boot of the vehicle at all times. Vehicles given this exemption will normally be executive type cars. The council will determine applications for exemption on a case by case basis. The plate exemption must be applied for on an annual basis on the anniversary of the renewal of the vehicle licence. Operators/drivers should not automatically assume that when licensing a new vehicle to replace an existing plate exempted vehicle or renewing an existing plate that the plate exemption will continue.

Lost property

16. The proprietor or driver of a private hire vehicle must hand in any found lost property to the nearest police station within 48 hours.

Convictions/change in particulars of proprietor

17. The proprietor shall give notice in writing to the council within seven working days of any convictions, warnings, reprimands, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) or change of their registered particulars, e.g. address or change of name.

SECTION 2

Novelty vehicles

1. For the purpose of this policy, a novelty vehicle shall mean a vehicle that is used for a particular occasion or occasions of a restricted nature, e.g. transport to parties or an 'executive vehicle' and is not a conventional vehicle used for standard private hire work. Examples of vehicles that may fall within the 'special event' category are stretch limousines, classic cars, fire engines (recreational), executive vehicles or a vehicle that has fewer than four seats.
2. This element of the policy does not apply in relation to vehicles used solely in connection with weddings and funerals, as these are exempt from private hire licensing.
3. The general licence conditions for private hire vehicles will not normally allow for novelty vehicles to be licensed for a number of reasons including the style and design of the vehicle.
4. Any novelty vehicle that has not been type approved, which does not meet the requirements of the Construction and Use Regulations or which otherwise would not meet the standard private hire vehicle conditions, the proprietor may apply to be licensed by seeking variation or exemption from some of the standard conditions.
5. Each vehicle will be considered and assessed on merit taking account of:
 - a) the overall condition of the vehicle
 - b) the number of passengers for which it is required to be licensed
 - c) the specific criteria for which exemption is sought.
6. The primary consideration will always be the safety and comfort of the travelling public.
7. This policy sets out the general considerations the council will take into account when considering an application for the licensing of a novelty vehicle.

Specification for novelty vehicles

8. Vehicles may be right or left hand drive provided that left hand drive vehicles have vehicle type approval from the Vehicle Certification Agency, Department for Transport, of which the council requires proof.
 - a) the vehicle must not have fewer than four road wheels
 - b) the number of doors must be sufficient to allow safe access and egress for the number of passengers for which approval is sought
 - c) the vehicle must comply with Construction and Use Regulations.
9. Vehicles must carry:
 - a) a fire extinguisher of a minimum of 1Kg power type and BS EN3 compliant, serviced in accordance with BS 5306, and a service record kept for inspection by an authorised officer of the council. The extinguisher must be securely affixed in the vehicle and ready for immediate use.
 - b) a first aid kit.
 - c) a spare wheel suitable for immediate use.

- d) a jack and tools for changing the wheels.
 - e) the screen sticker, if supplied by the council, must be displayed in the lower nearside corner of the rear windscreen.
 - f) spare light bulbs.
 - g) no audio, video or recording systems shall be installed or operated in the vehicle without prior written notification being supplied to the council.
10. Any vehicle that has been constructed or adapted to seat more than eight passengers cannot be licensed as a private hire vehicle.
 11. The interior and exterior of the vehicle shall be maintained in a clean and proper manner to the satisfaction of the council. In particular, the exterior of the vehicle shall be free of large dents, rust or un-repaired accident damage and shall at all times have uniform paintwork equivalent to that applied by the manufacturer. The interior shall be free of stains, spills and tears and the seats must function in accordance with the original manufacturer's specification.
 12. No age limit will be set for novelty vehicles but they are required to be tested as per private hire vehicles.
 13. The individual nature of a novelty vehicle will inevitably give rise to issues that would not apply to conventional private hire vehicles and therefore it will be necessary to consider whether special conditions should be included on any licence.

SECTION 3

Licence conditions for private hire operators

1. The holder of a private hire operator's licence shall comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976.
2. The records required to be kept by the operator under Section 56(2) of the Local Government (Miscellaneous Provisions) Act 1976 shall be kept in a suitable book or on a computer or any other recordable device. If using a book the pages must be numbered consecutively and the operator shall enter or cause to be entered before commencement of each journey, the following particulars of every booking accepted:
 - a) the time and date of the booking
 - b) the name of the hirer
 - c) the fare quoted
 - d) how the booking was made, e.g. telephone or electronic and the time of booking
 - e) the time of the proposed pick up
 - f) the point of pick up and drop off
 - g) the registration or plate number of the vehicle allocated for the booking and the name of the driver.
3. If the operator uses a computerised booking system the council will require access to the system so that the council is able to establish that records are entered sequentially and that it is able to establish the date and time at which the record was created.
4. The operator shall also keep records of the particulars of all private hire vehicles, which shall include details of the owner, registration numbers and drivers of such vehicles, together with any radio call signals used. All records kept by the operator shall be kept for a period of not less than 12 months following the date of the last entry and shall be made available, upon request to an authorised officer of the council, police officer or any other relevant enforcement agency.

5. Operators will also be required to provide adequate instruction to officers in order to enable them to interrogate the computerised records to gather the information they require to carry out their enforcement duties.

APPENDIX C: Licence conditions and code of conduct for hackney carriage and private hire drivers

1. All drivers are required to be familiar with all parts of the council's policy and comply with the requirements of the policy and the conditions that form a part of their licence.
2. Any hackney carriage/private hire driver's badge that is supplied by the council will cease to be valid on the expiry of the licence or upon suspension, surrender or revocation of the licence. Any badge supplied remains the property of the council and must be returned to the council if suspended, revoked or expired. If demanded the licence holder must return their licence and badge to the council. The penalty for failing to comply with this request is a fine not exceeding Level 1 on the Standard Scale.
3. Whilst in control of a hackney carriage or private hire vehicle, the driver shall, if required to do so by any person, give his or her name and badge number and also the name and address of the owner/proprietor and the identification marks of the vehicle.
4. The driver shall give notice in writing to the council within seven working days of any convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) or change of their registered particulars, e.g. address or change of name.
5. If a driver is given notice to undertake a random DBS check by the council they must do so within 28 days of the request.
6. The driver shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle. Drivers must ensure their appearance is smart and professional when working.
7. Any driver of a hackney carriage/ private hire vehicle acting in a disorderly, abusive, aggressive, or violent manner towards any member of the public, other driver or officer of the council may be deemed not to be a 'fit and proper person' to hold a licence.
8. Vehicle proprietors and drivers shall ensure that licensed vehicles do not cause an obstruction or nuisance to local residents when parked or collecting passengers.
9. To avoid nuisance to residents when picking up or waiting for a fare, a driver shall:-
 - a) not sound the vehicle's horn unless in case of emergency
 - b) keep the volume of audio and communications equipment to a reasonable level
 - c) switch off the engine if required to wait
 - d) take all reasonable additional action as is necessary to avoid disturbance to residents in the neighbourhood.
10. Every driver shall at all times when in charge of a licensed vehicle wear their driver's badge supplied by the council and the badge should be clearly visible.
11. Under Equalities Act 2010 Section 168 (Assistance Dogs), drivers will be required to carry an assistance dog accompanying a disabled person without any additional charge unless the driver has a medical exemption certificate that allows him/her not to carry dogs for medical reasons.
12. A driver shall give notice in writing to the council within seven working days of any change in medical condition. If required by the council a new medical may be required to determine if the driver is a 'fit and proper person'.
13. At hackney carriage ranks drivers shall;

- a) queue in an orderly manner and proceed along the rank in order and promptly
- b) if approached by a potential customer, direct them to the hackney carriage at the front of the rank unless the passengers specifically ask for a particular driver or company
- c) assist in improving air quality by switching off vehicle engines when parked, unless there are reasonable safety or comfort grounds for not doing so, for example keeping warm in very low temperatures.
- d) remain in or within 10 metres of the vehicle.
- e) not park on the rank when not working.

14. Every driver of a licensed vehicle when requested by any person hiring or seeking to hire the vehicle shall:

- a) convey a reasonable quantity of luggage
- b) afford reasonable assistance in loading and unloading
- c) be polite, helpful and fair to passengers, particularly those whose mobility may be restricted.

Legislation

15. The holder of every hackney carriage and private hire vehicle and drivers licence shall comply with the provisions relating to hackney carriage and private hire drivers and vehicles contained in the following legislation:

- a) Town Police Clauses Act 1847
- b) Part II Local Government (Miscellaneous Provisions) Act 1976
- c) Road Traffic Act 1988 Part 11 (a) Construction and Use of Vehicles and Equipment
- d) Section 168 Equalities Act 2010 (Assistance Dogs).

16. Notwithstanding the relevant legislation, the council's conditions, the council's hackney carriage and private hire driver, vehicle and operator policy and the council's byelaws, drivers, proprietors and operators should be aware of the following criminal offences:

- a) failure to give assistance to wheelchair users or failure to carry them safely
- b) charging an additional fee/fare for carrying a passenger needing assistance or for carrying an assistance dog
- c) refusal to carry an assistance dog without a medical exemption
- d) driving whilst using a hand held mobile telephone or device
- e) smoking in a hackney carriage or private hire vehicle
- f) driving whilst under the influence of alcohol, illegal or prescription drugs. Any amount of alcohol or illegal drug can affect a driver's capability to drive safely.
- g) exceeding the safe permitted number of working hours
- h) claiming benefits for which there is no entitlement
- i) and should always be aware of and obey traffic regulations and The Highway Code. This list is not exhaustive and the relevant enforcement agency (Police, local authority etc.) may take action as it sees fit. This may include prosecution.

APPENDIX D: Consideration of applications for the grant, renewal, suspension or revocation of licences

1. Upon receipt of a completed application form, the licensing officer will consider the application on its individual merits taking into account the person's previous history of behaviour to determine whether they meet the 'fit and proper person' criteria. Where the consideration is a review of an existing licence holder this will be to determine whether that person continues to meet the 'fit and proper person' criteria. Where the application is incomplete, it will not be considered until the missing details or documents are supplied and may be returned along with any fee provided.
2. Where having considered the application or review against the criteria of the council's policy the licensing officer considers that the person meets the criteria of a fit and proper person, the licensing officer has delegated powers to approve the application.
3. Successful applicants will be issued with a licence. Those who are granted a driver's licence will be issued with a badge, which will remain the property of the council and must be surrendered if the driver's licence is suspended or revoked. If a licence is suspended the driver must within seven days of that suspension return the badge to the council. If that suspension is subsequently lifted the badge will be returned to the driver within two working days.
4. Where having taken into account the applicant's history of behaviour including convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) the licensing officer is not satisfied that the person meets the criteria of a 'fit and proper person' and should therefore not be granted a licence, the officer will make a recommendation to the licensing sub-committee.
6. The proceedings and terms of reference of the licensing sub-committee are set out on the council's website.

Suspension or revocation

7. Under Section 61 (1) of the Local Government (Miscellaneous Provisions) Act 1976 a district council may suspend, revoke or refuse to renew a Hackney Carriage / Private Hire driver's licence. This may be for the following reasons;
 - a) since the grant of the licence they have been convicted of an offence involving dishonesty, indecency or violence, or
 - b) any other reasonable cause.
9. Under this section the driver has 21 days to appeal against the decision to their local Magistrates Court and during the appeal period the licence holder can continue to drive Hackney Carriage / Private Hire vehicles.
10. Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976 enables a decision to suspend or revoke a Hackney Carriage / Private Hire drivers licence to take immediate effect should the council believe it to be necessary in the interests of public safety. This means the driver cannot continue to drive Hackney Carriage / Private Hire vehicles during the appeal period.
11. The Licensing Committee delegated authority to the Deputy Chief Executive to immediately suspend or revoke a Hackney Carriage or Private Hire driver's licence where it is considered necessary in the interest of public safety.
12. A 'fast track' procedure will be adopted to re-licence those drivers who have had their licence revoked but have subsequently been found to be fit and proper. In these cases, the driver will supply the council with a new application form but there will be no subsequent application fee. All pre-check

enquiries (DBS, medical, references etc.) would stand and the dates they were previously due to expire would be valid, as would the licence itself.

APPENDIX E: Relevance of convictions

1. All applicants for a hackney carriage/private hire driver's licence must complete an enhanced Disclosure and Barring Service (DBS) check prior to the granting of a licence.
2. On completing the council's licence application form all convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) and pending court cases or licensing hearings must be declared. Failure to disclose convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) which are subsequently notified by the Disclosure and Barring Service or any pending court cases or licensing hearings will be considered to be an act of dishonesty and may result in the application being refused or the licence revoked. Applicants should note that any reference in this appendix to conviction also includes all convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders and fixed penalties (including traffic offences).
3. All past convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) will be considered in accordance with Home Office guidelines. The Rehabilitation of Offenders Act 1974 as amended by the Legal Aid, Sentencing and Punishment Act 2012 sets out the period after which all convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) are regarded as 'spent' and which would not normally necessitate disclosure. In 2002 the Rehabilitation of Offenders Act was amended so as to exclude hackney carriage and private hire drivers from the effects of the 1974 Act. Applicants for such licences are now required to disclose all convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) including those that would previously have been regarded as spent under the Act. The council will use the Rehabilitation of Offenders Act 1974 as guidance but in every case the individual facts will be considered in accordance with the criteria set out in the policy.
4. The overriding consideration is the safety of the public. The council has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse or assault passengers.
5. A person with a current conviction for a serious crime need not be permanently barred from obtaining a licence but should be expected to (a) remain free of conviction for an appropriate period and (b) show adequate evidence of good character from the time of the conviction. Simply remaining free of conviction will not generally be regarded as sufficient evidence of good character.
6. Some discretion may be applied if the offence is isolated and there are mitigating circumstances. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour which will be taken into account.

The Rehabilitation of Offenders Act 1974

7. Rehabilitation of Offenders Act 1974 guidelines as amended by the Legal Aid, Sentencing and Punishment Act 2012 will be used by the council, but for repeat offenders or offences that are not stipulated under the Rehabilitation of Offenders Act 1974 the following guidelines will be used to determine if an applicant is a fit and proper person to hold a licence.

Minor traffic offences

8. Convictions for minor traffic offences should not prevent an applicant from gaining a licence or an existing licence holder from keeping their licence. However, the number, type and frequency of such

offences will be taken into account and if there are several offences of this nature the applicant will normally be expected to show a period free of conviction of at least six months. An application will normally be refused where an applicant has nine or more penalty points on his/her DVLA licence (whether or not the applicant was convicted by a court for the offences for which the points were imposed) or where the applicant has more than one conviction for this type of offence within the last six months. An existing licence holder may be suspended where the person has nine or more penalty points on his/her DVLA licence (whether or not the applicant was convicted by a court for the offences for which the points were imposed) or where the applicant has more than one conviction for this type of offence within the last six months. Where an application has been refused or an existing licence holder suspended because of this provision they may be required to pass the DVSA (Driver & Vehicle Standards Agency) Taxi and Private Hire Assessment before the licence is granted or the suspended licence reinstated.

These offences are;

MS10 Leaving a vehicle in a dangerous position
MS20 Unlawful pillion riding
MS30 Play street Offences
MS40 Driving with uncorrected defective eyesight or refusing to submit to a test
MS70 Driving with uncorrected defective eyesight
MS80 Refusing to submit to an eyesight test
MS90 Failure to give information as to identity of driver etc.

MW10 Contravention of Special Road Regulations (excluding speed limits)

PC10 Undefined contravention of Pedestrian Crossing Regulations
PC20 Contravention of Pedestrian Crossing Regulations with moving vehicle
PC30 Contravention of Pedestrian Crossing Regulations with stationary vehicle

TS10 Failing to comply with traffic light signals
TS20 Failing to comply with double white lines
TS30 Failing to comply with a 'Stop' sign
TS40 Failing to comply with direction of a constable or traffic warden
TS50 Failing to comply with traffic sign (excluding 'Stop' sign, traffic lights or double white lines)
TS60 Failing to comply with school crossing patrol sign
TS70 Undefined failure to comply with a traffic direction sign

Aiding, abetting, counselling or procuring
Offences as coded above, but with 0 changed to 2 (e.g. PC10 becomes PC12)

Causing or permitting
Offences as coded above, but with 0 changed to 4 (e.g. PC10 becomes PC14)

Inciting
Offences as coded above, but with 0 changed to 6 (e.g. PC16 becomes PC16)

This list is not exhaustive and codes may be changed or added during the duration of this policy. If an applicant or current licence holder has been disqualified or given points that are not listed here, they will still be taken into account.

Major traffic offences

9. Any conviction for a major traffic offence within the last two years would require the application, or an existing licence holder, to be referred to the Licensing Sub-Committee for a decision. No further application would normally be considered until a period of three years free from convictions has elapsed. Where an application has been refused, or an existing licence holder suspended because of

this provision, they may be required to pass the DVSA Taxi and Private Hire Assessment before the licence is granted or the suspended licence reinstated.

These offences are;

- AC10 Failing to stop after an accident
- AC20 Failing to give particulars or to report an accident within 24 hours
- AC30 Undefined accident offences

- BA10 Driving while disqualified by order of court
- BA30 Attempting to drive while disqualified by order of court

- CD10 Driving without due care and attention
- CD20 Driving without reasonable consideration for other road users
- CD30 Driving without due care and attention or without reasonable consideration for other road users
- CD40 Causing death through careless driving when unfit through drink
- CD50 Causing death by careless driving when unfit through drugs
- CD60 Causing death by careless driving with alcohol level above the limit
- CD70 Causing death by careless driving then failing to supply a specimen for analysis
- CD80 Causing death by careless or inconsiderate driving
- CD90 Causing death by driving: unlicensed, disqualified or uninsured drivers

- DD40 Dangerous driving
- DD60 Manslaughter or culpable homicide while driving a vehicle
- DD80 Causing death by dangerous driving
- DD90 Furious driving

- DR10 Driving or attempting to drive with alcohol level above limit
- DR20 Driving or attempting to drive while unfit through drink
- DR30 Driving or attempting to drive then failing to supply a specimen for analysis
- DR40 In charge of a vehicle while alcohol level above limit
- DR50 In charge of a vehicle while unfit through drink
- DR60 Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive
- DR70 Failing to provide specimen for breath test
- DR80 Driving or attempting to drive when unfit through drugs
- DR90 In charge of a vehicle when unfit through drugs

- IN 10 Using a vehicle uninsured against third party risks

- LC20 Driving otherwise than in accordance with a licence
- LC30 Driving after making a false declaration about fitness when applying for a licence
- LC40 Driving a vehicle having failed to notify a disability
- LC50 Driving after a licence has been revoked or refused on medical grounds

- MS50 Motor racing on the highway
- MS60 Offences not covered by other codes

- UT50 Aggravated taking of a vehicle

- Aiding, abetting, counselling or procuring
Offences as coded above, but with 0 changed to 2 (e.g. LC20 becomes LC22)

- Causing or permitting
Offences as coded above, but with 0 changed to 4 (e.g. LC20 becomes LC24)

Inciting

Offences as coded above, but with 0 changed to 6 (e.g. DD40 becomes DD46)

This list is not exhaustive and codes may be changed or added during the duration of this policy. If an applicant or current licence holder has been disqualified or given points that are not listed here, they will still be taken into account.

Hybrid traffic offences

10. Offences of this type will be treated as major traffic offences if the court awarded four or more penalty points or as minor traffic offences if the court awarded three or less penalty points and will then be dealt with in accordance with minor or major traffic offences as necessary.

These offences are;

- CU10 Using vehicle with defective brakes
- CU20 Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
- CU30 Using a vehicle with defective tyre(s)
- CU40 Using a vehicle with defective steering
- CU50 Causing or likely to cause danger by reason of load or passengers
- CU80 Breach of requirements as to control of the vehicle, mobile telephones etc.

- SP10 Exceeding goods vehicle speed limit
- SP20 Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
- SP30 Exceeding statutory speed limit on a public road
- SP40 Exceeding passenger vehicle speed limit
- SP50 Exceeding speed limit on a motorway
- SP60 Undefined speed limit offence

Aiding, abetting, counselling or procuring

Offences as coded above, but with 0 changed to 2 (e.g. CU10 becomes CU12)

Causing or permitting

Offences as coded above, but with 0 changed to 4 (e.g. CU10 becomes CU14)

Inciting

Offences as coded above, but with 0 changed to 6 (e.g. CU10 becomes CU16)

This list is not exhaustive and codes may be changed or added during the duration of this policy. If an applicant or current licence holder has been disqualified or given points that are not listed here, they will still be taken into account.

Use of handheld mobile telephones whilst driving

11. Isolated convictions for use of a handheld mobile telephone or device should not prevent an applicant from gaining a licence or an existing licence holder from keeping their licence. However, the number, type and frequency of such offences will be taken into account and if there are more than two offences of this nature the applicant will normally be expected to show a period free of conviction of at least six months. Where an application has been refused or an existing licence holder suspended because of this provision they may be required to pass the DVSA Taxi and Private Hire Assessment before the licence is granted or the suspended licence reinstated.

Offences under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976

12. One of the main purposes of the licensing regime is to ensure the protection of the public. For this reason a serious view is taken of all convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) when deciding whether an applicant or an existing licence holder is to be treated as a 'fit and proper person' to hold or continue to hold a licence.
13. An applicant may be refused a licence where he or she has been convicted of an offence under the Acts at any time during the six months preceding the application, or has more than one conviction within the two years preceding the date of the application. If an existing proprietor, operator or driver is convicted of an offence under the legislation it could lead to all relevant licences being revoked for a minimum of five years; those who committed two or more offences would not normally be considered for a minimum of ten years but in most cases would be refused a licence for life. For new applicants who have submitted applications but are suspected of breaching the above named Acts, their application will be kept on hold pending a full investigation by the licensing officer. Those drivers who have had a licence revoked by any other local authority will not normally be considered for a minimum of five years after that revocation.
14. If the licensing officer having considered the applicant's or existing licence holder's previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not 'fit and proper' or that an existing licence holder no longer is a 'fit and proper person', the licensing officer will submit a report for consideration by the licensing sub-committee. Where it is necessary to immediately suspend or revoke in the interest of public safety, the licensing officer will recommend the Deputy Chief Executive to immediately suspend or revoke an existing licence under their delegated authority.

Driving under the influence of alcohol offences

15. Convictions of driving or being in charge of a vehicle while under the influence of drink will be viewed seriously. An isolated spent conviction under the guidelines of The Rehabilitation of Offenders Act 1974 may not prevent an applicant from gaining a licence or an existing licence holder from keeping their licence, but a warning will be given as to future behaviour. If an applicant has been convicted of drink driving whilst in charge of a vehicle, the applicant may be refused a licence until five years after restoration of the DVLA driving licence. Where an application has been refused or an existing licence holder suspended because of this provision they may be required to pass the DVSA Taxi and Private Hire Assessment before the licence is granted or the suspended licence reinstated.
16. An unspent conviction for this type of offence will result in the refusal of the application or the revocation of an existing licence. If the licensing officer having considered the applicant's or existing licence holder's previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not 'fit and proper' or that an existing licence holder no longer is a 'fit and proper person', the licensing officer will submit a report for consideration by the licensing sub-committee. Where it is necessary to immediately suspend or revoke in the interest of public safety, the licensing officer will recommend the Deputy Chief Executive to immediately suspend or revoke an existing licence under their delegated authority.

Public disorder offences involving alcohol

17. An isolated conviction for an alcohol related offence need not prevent an applicant from gaining a licence or an existing licence holder keeping their licence. If the licensing officer having considered the applicant's or existing licence holder's previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not 'fit and proper' or that an existing licence holder no longer is a 'fit and proper person', the licensing officer will submit a report for consideration by the licensing sub-committee. Where it is necessary to immediately

suspend or revoke in the interest of public safety, the licensing officer will recommend the Deputy Chief Executive to immediately suspend or revoke an existing licence under their delegated authority.

Drugs

18. An applicant with a conviction for a drug related offence will be required to show a period of at least five years free of convictions before an application is granted. An existing licence holder who is convicted of a drug related offence will be referred to the licensing sub-committee who could order that all relevant licences are revoked. If the licensing officer having considered the applicant's or existing licence holder's previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not 'fit and proper' or that an existing licence holder no longer is a 'fit and proper person', the licensing officer will submit a report for consideration by the licensing sub-committee. Where it is necessary to immediately suspend or revoke in the interest of public safety, the licensing officer will recommend the Deputy Chief Executive to immediately suspend or revoke an existing licence under their delegated authority.

Indecency offences

19. Applicants with convictions for soliciting will be refused a licence until five years free of such offences. An existing licence holder who is convicted of soliciting will be referred to the licensing sub-committee who could order that all relevant licences are revoked. Applicants with convictions for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences, will be refused until a minimum of ten years free of such offences has passed. An existing licence holder who is convicted of any of these offences will be referred to the licensing sub-committee who could order that all relevant licences are revoked. More than one conviction for this kind of offence will mean that no licence will be granted. If the licensing officer having considered the applicant's or existing licence holder's previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not 'fit and proper' or that an existing licence holder no longer is a 'fit and proper person', the licensing officer will submit a report for consideration by the licensing sub-committee. Where it is necessary to immediately suspend or revoke in the interest of public safety, the licensing officer will recommend the Deputy Chief Executive to immediately suspend or revoke an existing licence under their delegated authority.

Violence

20. As hackney carriage and private hire drivers maintain close contact with the public any existing licence holder with a conviction for any of the offences set out below will have his licence revoked. Any applicant for a licence will be refused where they have an unspent conviction for any of the offences below:

- a) murder
- b) manslaughter
- c) manslaughter or culpable homicide while driving
- d) arson
- e) malicious wounding or grievous bodily harm (s.20 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(a) Crime and Disorder Act 1998)
- f) actual bodily harm (s.47 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(b) Crime and Disorder Act 1998)
- g) grievous bodily harm with intent (s.18 Offences Against the Person Act)
- h) grievous bodily harm (s.20 Offences Against the Person Act)
- i) robbery
- j) racially aggravated criminal damage (s.30 Crime and Disorder Act 1998)
- k) racially aggravated s.4 Public Order Act 1986 offence (fear or provocation of violence) (s.31(1)(a) Crime and Disorder Act 1998)
- l) racially aggravated s.4A Public Order Act 1986 offence (intentional harassment, alarm or distress) (s.31 (1)(b) Crime and Disorder Act 1998)

- m) racially aggravated s.2 Protection from Harassment Act 1997 offence (harassment) (s.32(1)(a) Crime and Disorder Act 1998)
 - n) racially aggravated s.4 Protection from Harassment Act 1997 offence (putting people in fear of violence) (s.32 (1) (b) Crime and Disorder Act 1998).
21. If the licensing officer having considered the applicant's or existing licence holder's previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not 'fit and proper' or that an existing licence holder no longer is a 'fit and proper person', the licensing officer will submit a report for consideration by the licensing sub-committee. Where it is necessary to immediately suspend or revoke in the interest of public safety, the licensing officer will recommend the Deputy Chief Executive to immediately suspend or revoke an existing licence under their delegated authority.
22. As hackney carriage and private hire drivers maintain close contact with the public any existing licence holder with a conviction for any of the offences set out below will have his licence revoked. Any applicant for a licence will be refused where they have an unspent conviction for any of the offences below:
- a) common assault
 - b) common assault which is racially aggravated (s.29(1)(c) Crime and Disorder Act 1998)
 - c) assault occasioning actual bodily harm (s.47 Offences Against the Person Act)
 - d) assaulting a police officer
 - e) affray
 - f) racially aggravated s.5 Public Order Act 1986 offence (harassment, alarm or distress) (s.31(1)(c) Crime and Disorder Act 1998)
 - g) riot
 - h) obstruction
 - i) possession of an offensive weapon
 - j) possession of a firearm
 - k) criminal damage
 - l) violent disorder
 - m) resisting arrest.
23. If the licensing officer having considered the applicant's or existing licence holder's previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not 'fit and proper' or that an existing licence holder no longer is a 'fit and proper person', the licensing officer will submit a report for consideration by the licensing sub-committee. Where it is necessary to immediately suspend or revoke in the interest of public safety, the licensing officer will recommend the Deputy Chief Executive to immediately suspend or revoke an existing licence under their delegated authority.

Theft and fraud

24. Drivers of hackney carriage and private hire vehicles are expected to be honest.
25. As hackney carriage and private hire drivers maintain close contact with the public any existing licence holder with a conviction for an offence of theft or fraud will have his licence revoked. Any applicant for a licence will be refused where they have an unspent conviction for any of the offences listed below:
- a) theft
 - b) burglary
 - c) fraud
 - d) perjury
 - e) benefit fraud (including offences under ss.111A and 112 of the Social Security Administration Act 1992)
 - f) handling or receiving stolen goods

- g) forgery
- h) conspiracy to defraud
- i) obtaining money or property by deception
- j) other deception
- k) any other similar offence of dishonesty

26. If the licensing officer having considered the applicant's or existing licence holder's previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not 'fit and proper' or that an existing licence holder no longer is a 'fit and proper person', the licensing officer will submit a report for consideration by the licensing sub-committee. Where it is necessary to immediately suspend or revoke in the interest of public safety, the licensing officer will recommend the Deputy Chief Executive to immediately suspend or revoke an existing licence under their delegated authority.

Driver's behaviour

27. Any hackney carriage/private hire driver acting in a disorderly, abusive or violent manner towards any member of the public, other driver, police officer or any council official (including officials from other councils) will be deemed not to be a 'fit and proper person' to hold a licence and will be referred for consideration by the licensing sub-committee. Where it is necessary to immediately suspend or revoke in the interest of public safety, the licensing officer will recommend the Deputy Chief Executive to immediately suspend or revoke an existing licence under their delegated authority.

Information

28. The date of the court conviction is to be taken as the start date of the rehabilitation period, unless a sentence of imprisonment or corrective training exceeding 48 months was imposed, in which case the offence is never rehabilitated.

29. A decision to refuse, revoke or suspend the licence can be appealed under the Public Health Act 1936 to the local Magistrates' Court within 21 days of the date on which the council's decision was served.

Summary of rehabilitation periods applicable to certain sentences

(Rehabilitation of Offenders Act 1974 as amended by the Legal Aid, Sentencing and Punishment Act 2012)

Sentence/disposal	Buffer period for adults (18 and over at the time of conviction or the time the disposal is administered). This applies from the end date of the sentence (including the licence period).	Buffer period for young people (under 18 at the time of conviction or the time the disposal is administered). This applies from the end date of the sentence (including the licence period).
Custodial sentence* of over 4 years, or a public protection sentence	Never spent	Never spent
Custodial sentence of over 30 months (2 5 years) and up to and including 48 months (4 years)	7 Years	3.5 years
Custodial sentence of over 6 months and up to and including 30 months (2 5 years)	4 Years	2 years
Custodial sentence of 6 months or less	2 Years	18 months

Community order or youth rehabilitation order**	1 Year	6 months
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- a) Custodial sentence includes a sentence of imprisonment (both an immediate custodial sentence and a suspended sentence), a sentence of detention in a young offender institution, a sentence of detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000, a detention and training order, a sentence of youth custody, a sentence of corrective training and a sentence of Borstal training.
- b) In relation to any community or youth rehabilitation order which has no specified end date, the rehabilitation period is 2 years from the date of conviction.
- c) Those given a jail sentence of more than 30 months for sexual offending are placed on the sex offenders register indefinitely. Those imprisoned for between six and 30 months remain on the register for 10 years, or five years if they are under 18. Those sentenced to six months or less are placed on the register for seven years, or three-and-a-half years if under 18. Those cautioned for a sexual offence are put on the register for two years, or one year if under 18.

The following table sets out the rehabilitation period for sentences which do not have “buffer periods” and for which the rehabilitation period runs from the date of conviction.

Sentence/disposal	Rehabilitation period for adults (18 and over at the time of conviction or the time the disposal is administered).	Rehabilitation period for young people (under 18 at the time of conviction or the time the disposal is administered).
Fine	1 Year	6 months
Conditional discharge,	Period of the order	Period of the order
Absolute discharge	None	None
Conditional caution and youth conditional caution	3 months or when the caution ceases to have effect if earlier	3 months
Simple caution, youth caution	Spent immediately	Spent immediately
Compensation order	On the discharge of the order (i.e. when it is paid in full)	On the discharge of the order (i.e. when it is paid in full)
Binding over order	Period of the order	Period of the order
Attendance centre order	Period of the order	Period of the order
Hospital order (with or without a restriction order)	Period of the order	Period of the order
Referral order	Not available for adults	Period of the order
Reparation order	Not available for adults	None

TEWKESBURY BOROUGH COUNCIL

Report to:	Licensing Committee
Date of Meeting:	18 October 2018
Subject:	Review of Street Trading Policy
Report of:	Environmental Health Manager
Corporate Lead:	Head of Community Services
Lead Member:	Lead Member for Clean and Green Environment
Number of Appendices:	Three

Executive Summary:

At the Licensing Committee Meeting on 14 June 2018, it was agreed that the views of street traders would be sought with regards to the inclusion of a requirement to have an enhanced Disclosure and Barring Service (DBS) check carried out as a pre-requisite to being licensed as a street trader. Given that no significant objections were raised, it is recommended that the requirement to have enhanced DBS checks be included in the draft revised Street Trading Policy for public consultation.

Recommendation:

To APPROVE the draft revised Street Trading Policy for public consultation, which includes an amendment to require an enhanced Disclosure and Barring Service (DBS) check as a pre-requisite to obtaining a street trading licence, as set out at Appendix 3.

Reasons for Recommendation:

Following consultation with the licensed street traders within Tewkesbury Borough, no strong objection was received regarding inclusion of an enhanced DBS check as a requirement of obtaining a street traders licence.

Resource Implications:

There are no significant resource implications resulting from this report.

Legal Implications:

There are no significant legal implications resulting from this report

Risk Management Implications:

None.

Performance Management Follow-up:

The results of the wider public consultation will be brought back to the Licensing Committee on the 14 February 2019 for final approval.

Environmental Implications:

None.

1.0 INTRODUCTION/BACKGROUND

- 1.1 At the Licensing Committee on 14 June 2018 it was agreed that street traders should be consulted on the inclusion of an enhanced Disclosure and Barring Services (DBS) check as a pre-requisite to obtaining a street traders licence.

2.0 STREET TRADING POLICY CONSULTATION

- 2.1 On 11 September 2018 a letter was sent to the 17 licensed street traders within the borough seeking their views on the proposed changes. A copy of the letter is attached at Appendix 1.

- 2.2 Of the 17 street traders consulted, only one response was received. This response was as follows:

“Returning our views as asked regarding having to have a DBS check for licence. A DBS check is to protect children and vulnerable people as your email pointed out. Being a breakfast van in a layby serving food we don’t get children and vulnerable adults, as our customer base is to mainly men workers and lorry drivers and the odd lady I don’t see the need for this check in our type of business. It seems irrelevant and it would be a waste of money to pay for this in our type of business. However, if the council are paying for DBS checks then I don’t mind them being done.

I agree some business-like ice cream vans, face painters etc. should have one as they are specifically targeting children. I think if a business is trading with a lot of children yes it should be required. I think it depends on the type of business and where it is trading as to whether a DBS is required.

We are out of town in a quiet lay-by so we are not targeted by children, only people who have cars, lorries and vans come and any vulnerable adults are with their carers.

These are our views. Hope it helps.”

- 2.3 The response received generally supports DBS checks; however, the responder draws a distinction between which street traders a check should apply to. Whilst it may be less likely that children are able to visit street traders in areas that are difficult to access without a vehicle, vulnerable adults may still be able to access such areas. As such, enhanced DBS checks should be applied to all street traders.

- 2.4 It is proposed that the enhanced DBS checks be carried out in a similar way as they are for taxi licensing. This would involve the applicant and any assistants obtaining a DBS form through the Council which they would complete and this would be sent off to the Disclosure and Barring Service. There would be an initial cost of £62; the applicant and the assistant would then have the choice of renewing after three years at a similar cost, or they could sign up to the Disclosure and Barring Service for £13 per year. Further details of DBS checks can be found at: www.gov.uk/db It would be the intention that all existing street traders would have to follow this revised policy when they next renew and that any new applications would need to comply with the revised policy before a licence is issued. The current fees for street trading licences are contained in Appendix 2.

- 2.5 A revised version of the Street Trading Policy is set out at Appendix 3 and includes the requirement that enhanced DBS checks be carried out as a pre-requisite to being licensed. Members are asked to approve the draft revised policy for public consultation.

3.0 OTHER OPTIONS CONSIDERED

3.1 N/A

4.0 CONSULTATION

4.1 Licensed street traders were consulted on the proposals in this report between 11 September and 1 October 2018.

5.0 RELEVANT COUNCIL POLICIES/STRATEGIES

5.1 Tewkesbury Borough Council, Street Trading Policy, March 2018

6.0 RELEVANT GOVERNMENT POLICIES

6.1 Statement of Government Policy on Adult Safeguarding - 16 May 2011

Safeguarding Children and Young People - 14 July 2014

7.0 RESOURCE IMPLICATIONS (Human/Property)

7.1 None

8.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

8.1 This change to policy seeks to extend greater protections to children and vulnerable adults across the borough.

9.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

9.1 This change to policy seeks to extend greater protections to children and vulnerable adults across the borough.

10.1 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

10.1 This aligns with the Council's Safeguarding Policy

Background Papers: None

Contact Officer: Environmental Health Manager
01684 2720117 gordon.buchanan@tewkesbury.gov.uk

Appendices: Appendix 1 - Consultation Letter
Appendix 2 - Street Trading Fees
Appendix 3 - Draft Revised Street Trading Policy

Our Contact: Licensing Team
Direct Dial: 01684 272271
E-Mail: licensing@teewkesbury.gov.uk
Our Ref:

11th September 2018

Dear Sir/Madam,

Safeguarding Disclosure and Barring Service Check (DBS check)

I am writing to you as a licensed street trader within Tewkesbury borough, to seek your views on a proposed change to the Council's Street Trading Policy.

The Council is considering adding a requirement to the Policy that all street traders be required to undertake an **Enhanced Disclosure and Barring Service check** as a condition of being issued with a street trading licence.

Background

The Council has a safeguarding responsibility to protect children and vulnerable individuals from harm. As a part of this, the Council continually reviews its policies and procedures in order to ensure that this responsibility is reflected in all the services that it provides.

One of the services that the Council provides is a licensing function, which includes the licensing of street traders. It is already a requirement that taxi drivers undertake an enhanced DBS check prior to being licensed as a taxi driver. The Council are now considering whether to include this requirement as part of the street trading policy and would welcome your comments.

What is Safeguarding?

The term safeguarding is used to define actions taken to protect vulnerable groups from harm. Groups include children and vulnerable adults. The term harm includes ill treatment and neglect, where ill treatment includes non-physical treatment such as exploitation. Further information on safeguarding can be found at:

<https://www.gov.uk/government/publications/safeguarding-children-and-young-people/safeguarding-children-and-young-people>

What is a Disclosure and Barring Service?

The Disclosure and Barring Service is a public body whose responsibility is to assist employers make safer recruitment decisions by carrying out background checks on individuals who work with children and vulnerable individuals. Further details about the Disclosure and Barring Service and the checks they carry out, can be found at:

<https://www.gov.uk/government/organisations/disclosure-and-barring-service/about>

What is a DBS Check?

A DBS check provides details of convictions and conditional cautions that are considered to be unspent under the terms of the Rehabilitation of Offenders Act (ROA) 1974. The applicant receives a Certificate setting out what information is listed for that individual. This information is used by employers to assess the suitability of an individual for a particular role.

What is an Enhanced DBS Check?

The enhanced check is generally applied to those working with vulnerable individuals or children. In addition to the information contained on the standard DBS document, it may also include spent convictions, other non-conviction advice (such as warnings and reprimands) and whether the individual is barred from working with certain groups of people.

Prior to any decision being made and a formal consultation process taking place, I would welcome your initial thoughts on the potential inclusion in the Street Trading Policy of the requirement for an Enhanced DBS check to be undertaken prior to a Street Trading License being granted.

Any comments you may have can be forwarded to the Council by the following means:

By E-mail: Licensing@tewkesbury.gov.uk

By Post: Licensing, Tewkesbury Borough Council, Gloucester Road, Tewkesbury
Gloucestershire, GL20 5TT

If you need any further information, please contact the number at the top of this letter.

I would appreciate your comments by the **2nd of October 2018**.

Regards

Environmental Health Manager

STREET TRADING LICENCES

STATIC TRADING (e.g. Snack Vans in a layby)

Annual £513

6 months £300

TRANSIENT TRADING (e.g. Mobile Ice Cream Vans)

Annual £300

6 months £191

Non-food Traders £143

TRADING IN PRIME SITES (All types)

up to 2 days per week

Annual £938

6 months £524

TRADING IN PRIME SITES (All types)

Up to 3 days + per week

Annual £1364

6 months £764



Street Trading Policy

Implementation Date: 1st March 2018

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1.0 INTRODUCTION

1.1 The Policy

- 1.1.1. This document states Tewkesbury Borough Council's Policy on Street Trading, as defined by the Local Government (Miscellaneous Provisions) Act 1982 (Section 3 and Schedule 4).
- 1.1.2. In exercising its discretion in carrying out its regulatory functions, Tewkesbury Borough Council will have regard to this Policy document and the principles set out therein.
- 1.1.3. Notwithstanding the existence of this Policy, each application will be considered on its own merits, with reference to the principles and procedures that are detailed in this Policy.

1.2. The Objectives of this Policy

- 1.2.1. This Policy recognises the important service that is provided by street traders and the contribution they make to the local economy.
- 1.2.2. The objective of this Policy is to create a trading environment in which street trading complements existing premises-based retailing activities, is sensitive to the needs and concerns of residents and provides diversity in terms of consumer choice.
- 1.2.3. The Policy aims to ensure that street trading does not undermine safe and efficient passage along public highways.
- 1.2.4. This Policy aims to balance the needs of the wider community, local community and street traders, against the needs of those who may be adversely affected by the street trading activities.
- 1.2.5. The Policy aims to provide consistency and transparency in the way in which the Council deals with street trading and to ensure that street trading is fairly, appropriately and proportionately controlled, in line with the Council's Corporate Enforcement Policy.

1.3. The Law

- 1.3.1. The Local Government (Miscellaneous Provisions) Act 1982 (Section 3 and Schedule 4) provides the legal framework for the control of street trading in England and Wales. This activity is defined as "*the sale and exposing or offering for sale any article, including a living thing, in a street.*" Streets are further defined as to include any road, footway, beach, or other area to which the public have access without payment.
- 1.3.2. The main purpose of this legislation is to establish an appropriate regulatory regime which prevents undue nuisance, interference or inconvenience to the public brought about by street trading. This legislation provides local

authorities with the power to designate specific areas within their administrative boundaries as either:

- Prohibited Streets: those which are not open to street traders
- Consent Streets: where street trading is prohibited without Local Authority consent
- Licence Streets: where trading is prohibited without a Local Authority licence

1.4.1 Local authorities can place conditions on any Consent or Licence granted. The Act also creates offences associated with trading in Consent or Licence streets without the necessary authority: the person guilty of such an offence may be liable, on conviction, to a fine of up to £1000.

1.4.2 There are, however a number of exemptions provided in the Act, which are not considered to be street trading. These are detailed in Section 10 below (definition of 'Street Trading'). However it is important to note that exempted traders are still controlled by other regulatory legislation.

1.5 Licensing Act 2003

1.5.1 It should be noted that should a street trader wish to sell alcohol or provide late night refreshment, additional authorisation will be needed under the terms of the Licensing Act 2003.

1.5.2 Late night refreshment is the supply of hot food or drink between the hours of 11pm and 5am on any day of the week.

1.5.3 Licensing Officers will be able to provide further information on the requirements of the Licensing Act 2003.

2.0 DESIGNATION OF STREETS FOR THE PURPOSES OF STREET TRADING

2.1 Prohibited Streets

Listed below are the streets that have been designated by the Council as prohibited streets. These are streets in which street trading is prohibited:-

- The A438 / A46 from its easterly junction with Barton Street and Chance Street, Tewkesbury to the Teddington Hands Roundabout.
- Evesham Road / Cheltenham Road at Bishops Cleeve from the boundary with Cheltenham Borough Council to Anchor Cottage Bend, Bishops Cleeve.
- The A46 from the Teddington Hands roundabout to the County boundary with Worcestershire.
- The A4019 from the boundary with Cheltenham Borough Council at Swindon to the junction with the M5 motorway but to exclude the lay-by at the southern side of this road at Uckington.

- The A40 from the boundary with the Cheltenham Bough Council at Badgeworth Parish Council to Gloucester City Council at Innsworth Parish (i.e. the Golden Valley By-Pass).
- The A40 from the junction with the A48 at Highnam to the boundary with Gloucester City Council.
- The A46 from the boundary with Cheltenham Borough Council to the junction with Ermin Street and Cirencester Road at Brockworth.
- Hucclecote Road / Ermin Street / Cirencester Road, Brockworth from the boundary with Gloucester City Council to the junction between Cirencester Road and Green Lane
- The lay-by at the side of the B4632 at Postlip, Winchcombe.
- The B4063 from its junction with the A40 at the Golden Valley roundabout to the eastern edge of the Churchdown urban areas.
- The B4632 in Winchcombe from its junction with Corndean Lane to its junction with Silk Mill Lane.
- North Street, Winchcombe from its junction with High Street to its junction with Back Lane and Greet Road.
- The A38 Tewkesbury from the High Street and Bredon Road junction to the junction with the A438 at the Mythe.
- High Street, Barton Street, and Church Street, Tewkesbury.
- Oldbury Road, Tewkesbury from its southerly junction with Nelson Street to its northerly junction with Bredon Road.

2.2 Consent Streets

All other streets in the Borough have been designated by the Council as “consent streets”. This means that street trading can only take place in these streets with the consent of the Council.

2.3 Prime Sites

A “Prime Site” category is considered as one where an applicant seeks consent to trade in a street, and regularly occupies the same site for more than 4 hours on any one or more days, and is located within 100 metres of a shopping area as listed below.

- Lee Road and Northway Lane Shopping Centre, Ashchurch
- Church Road, The Green and Tobyfield Road, Bishops Cleeve
- Abbottswood Road, Court Road, The Parade, Usk Way, Ermin Park and Ermin Parade, Brockworth

- Blacksmith Lane, Brookfield Road, Chosen Drive and St Johns Avenue, Churchdown
- Kestrel Parade and Salvia Close, Innsworth
- Barton Street, Church Street, High Street, Mitton Way, Oldbury Road and Queens Road, Tewkesbury
- High Street, North Street and Station Road, Winchcombe

3.0 APPLICATIONS FOR A STREET TRADING CONSENT

3.1 Advice for New Applicants

- 3.1.1 New applicants are advised to contact the Council at their earliest opportunity, preferably before an application is made. This allows Officers to provide advice, as well as clarifying any areas of uncertainty.
- 3.1.2 It is the responsibility of the applicant, in the first instance, to identify the location(s) in which they wish to trade as there is no designated list of street trading “pitches” that can be traded from.
- 3.1.3 The Council can also provide advice in relation to other legal requirements of a new Consent Holder, for example, planning permission or food safety requirements.

3.2 Disclosure & Barring Service (DBS)

- 3.2.1 Applicants applying for a new street trading consent will be expected to obtain an enhanced DBS certificate (formerly known as CRB) from the Disclosure and Barring Service, which must be no more than one calendar month old when submitted to the Council.
- 3.2.2 The DBS certificate must be in the name and address of the applicant as detailed on the application form.
- 3.2.3 The original certificate must accompany the application form.
- 3.2.4 The Council will ask for a new DBS certificate from an applicant every third year beginning with the year after the issue of a new consent.
- 3.2.6 The DBS certificate will be expected to accompany a renewal application every three years and the Council will make it clear to applicants when this is required.
- 3.2.5 When determining an application for the grant or renewal of a street trading consent the Council will consider all relevant information relating to the suitability of the applicant to hold such a consent. Street Traders and their commercial activities are often subject to minimum levels of supervision. They interact closely with members of the public and it is important that the public,

especially vulnerable people are protected from harm, and from those who may harm them, wherever possible.

3.3 Suitability of Applicant

3.3.1 The Council will determine whether the applicant is a suitable person to carry on business as a street trader and may not issue a consent unless satisfied that the applicant is suitable. In determining this, the Council may have regard to any information, which it considers relevant including:-

- Whether the applicant has been convicted of a relevant offence;
- Refusal or neglect in paying fees due to the Council for a street trading consent, or for any other charges due for services rendered by the Council to the applicant in his capacity as the holder of a street trading consent;
- Previous failures of the applicant, without reasonable excuse, to make use, to a reasonable extent, of a previous street trading consent;
- Any previous enforcement action;
- Any previous refusal of an application for the grant or renewal of a Street Trading Consent;
- Any previous revocation of a Street Trading Consent.

3.3.2 Identification badges will be issued by the Council to demonstrate the suitability of the consent holder and any assistants who may be trading on their behalf. Other employees may not need to apply for DBS check and an identification badge as long as they are supervised at all times by a badge holder.

3.3.3 Identification badges do not reflect the street trading consent. Consent holders are still required to display their consent on their unit. Each applicant or assistant will only require one badge per person; this applies if they trade under more than one street trading consent.

3.4 Applications

3.4.1 All applications for grant or renewal of a Street Trading Consent must be made on the Council's prescribed application form. A copy of the prescribed form is attached to this Policy at **Annex A**.

3.4.2 Each application must be accompanied by the prescribed application fee. An application will not be considered as duly made until the prescribed application fee has been received.

3.4.3 The following will also be required to be submitted with the application:-

- Where the proposed trading is from a fixed location, a copy of a plan at a minimum scale of 1:2000, unless an alternative scale has been specified by a Licensing Officer. This plan should clearly identify the proposed site location by marking the site boundary with a red line.
- Where the trading is proposed to take place on a mobile basis, a list of the relevant Towns/Parishes in which trading is proposed to take place providing details where possible about specific areas.

- Confirmation that an adequate level of third party public liability insurance is, or will be, in place during street trading activity.
- Where the trading is to take place from private land, documentary evidence that the landowner has given their consent to the applicant to trade from their land.
- Two passport sized photographs of the applicant and any person who will be assisting with the trading on a regular basis. One of the photographs of each person must be endorsed with a statement verifying the likeness of the photograph to the applicant by a solicitor, notary, a person of standing in the community or any individual with a professional qualification.

3.4.4 Applications cannot be considered from anyone under the age of 17.

3.5 Processing an Application

3.5.1 Applications for grant or renewal of a Street Trading Consent will be notified by the Council to the following:-

- Gloucestershire Constabulary.
- Gloucestershire Highways.
- The relevant Town/Parish Council(s).
- The Borough Councillor(s) for the Ward(s) concerned.
- Environmental Health Officers at Tewkesbury Borough Council.
- The Planning Authority.

3.5.2 Additionally, where the application is for grant of a new Consent in respect of a fixed location, the applicant must also advertise their application by displaying the prescribed Public Notice at the relevant location for not less than 14 days beginning with the day after the application for Consent is made to the Council. The form of the Public Notice required is shown at **Annex B** to this Policy.

3.5.3 The Council will allow 28 days from the date that the application is received for people to make representations or objections in relation to the application.

3.5.4 Representations or objections will be accepted from any of the bodies listed at 3.3.1 and any other individual or business that can demonstrate that they would be materially affected by the proposed street trading activities.

3.6 Determining Applications with no Representations or Objections

3.6.1 Where no representations or objections are received within 28 days of the application being received, Officers will grant Consent to the applicant in the terms that it was applied for.

3.7 Determining Applications through Mediation

- 3.7.1 Where a representation or objection is received in respect of an application, a Licensing Officer will, in the first instance, attempt to mediate between the relevant parties.
- 3.7.2 For example, it may be possible to find a compromise position in one of the following ways:-
- amending the times during which trading will take place;
 - amending the days on which trading will take place;
 - adding conditions to the Consent to address specific concerns;
 - granting Consent for a trial period to assess the impact; or
 - amending the list of articles to be sold.
- 3.7.3 Where all relevant parties agree to a compromise position, the Consent will be granted by Officers, subject to the agreed amendments.

3.8 Determining Applications Where Mediation Is Not Possible

- 3.8.1 Where representations or objections are received and it is not possible to reach an agreed compromise, the application can be referred, at the applicant's request, to a Licensing Sub-Committee for determination.
- 3.8.2 The Licensing Sub-Committee will be conducted in accordance with the procedure attached at **Annex C** of this Policy.

3.9 Key Considerations

- 3.9.1 Each application will be considered on its own merits.
- 3.9.2 The Council will have regard to all of the circumstances and all of the representations and objections that it receives. The Council will normally grant or renew a Street Trading Consent unless, in its opinion,-
- a significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site; or
 - there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited; or
 - there would be a significant loss of amenity caused by traffic, noise (whether from trading unit or its customers), light pollution, rubbish, air quality, potential for the harbourage of vermin; or
 - there is already adequate like provision in the vicinity of the site to be used for street trading purposes; or
 - there is a conflict with Traffic Orders such as waiting restrictions; or
 - the site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes; or
 - street trading activities would undermine the safe and efficient passage along public highways and cause congestion; or
 - the pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities; or

- the site does not allow the Consent Holder, staff and customers to park in a safe manner; or
- the trading activity would detract from the visual or other attractions of the area in which it takes place, particularly designated Conservation Areas, Areas of Outstanding Natural Beauty and Sites of Special or Scientific Interest; or
- street trading activities would conflict with the solemnity and tranquillity that can reasonably be expected at sensitive locations, such as close to a place of worship, cemetery, crematorium etc; or
- the street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff; or
- a Consent has already been granted to another person to trade similar articles in the immediate vicinity.

3.10 Options Available to Licensing Sub-Committee

3.10.1 When determining an application for grant or renewal of a Street Trading Consent, a Licensing Sub-Committee can take any of the following steps as is considered desirable with a view to meeting the objectives of this Policy:-

- (a) grant consent to the applicant as applied for;
- (b) grant consent to the applicant subject to modifications to any of the following matters:
 - (i) the days on which trading can take place;
 - (ii) the times during which trading can take place;
 - (iii) the location(s) where trading can take place;
 - (iv) the articles that can be traded;
 - (v) the conditions attached to the Consent;
 - (vi) the duration of the Consent.
- (c) refuse to grant Consent.

3.10.2 In the interests of transparency, reasons will be given for any decision taken by a Licensing Sub-Committee.

4.0 DURATION OF STREET TRADING CONSENTS

4.1 Duration

- 4.1.1 A Street Trading Consent may be granted for any period not exceeding 12 months, but may be revoked at any time.
- 4.1.2 The holder of a Street Trading Consent may at any time surrender their Consent to the Council, and it shall then cease to be valid
- 4.1.3 A Street Trading Consent will normally be granted for 6 or 12 months, in accordance with the applicant's wishes, and will then expire.

- 4.1.4 The Council will consider granting a Street Trading Consent for a shorter duration than 6 months on application.
- 4.1.4 A Street Trading Consent may be granted for a shorter period as determined either through the mediation process described at Paragraph 3.5 or by a Licensing Sub-Committee. Consents lasting less than 6 months may be granted to provide a “trial period” during which any adverse impact of the trading can be assessed.

4.2 Renewal

- 4.2.1 Applications to renew an existing Street Trading Consent must be made at least 28 days prior to the expiry of the existing Consent.
- 4.2.2 If applications for renewal are not received at least 28 days prior to the expiry of the existing Consent, applications from other prospective traders wishing to trade at the relevant location will be considered.

5.0 CONDITIONS ATTACHED TO CONSENTS

5.1 Standard Conditions

- 5.1.1 When granting or renewing a Street Trading Consent, the Council may attach such conditions to it as they consider reasonably necessary.
- 5.1.2 Street Trading Consents will usually be granted subject to the standard conditions detailed in **Annex D** to this Policy.

5.2 Additional Conditions

- 5.2.1 Additional conditions, over and above the standard conditions, may be imposed on a Street Trading Consent on a case by case basis. Additional conditions may be attached either as a result of the mediation process described at Paragraph 3.5 or by a Licensing Sub-Committee when granting Consent.

6.0 APPEALS

6.1 Refusals / Attached Conditions

- 6.1.1 The Act does not provide an applicant with any direct right of appeal against a decision to refuse the grant or renewal of a Street Trading Consent, the revocation of a Street Trading Consent, or against any restrictions or conditions imposed on a Street Trading Consent.

7.0 COMPLAINTS AND ENFORCEMENT

7.1 General Principles

- 7.1.1 It is recognised that well-directed enforcement activity by the Council benefits not only the public but also responsible members of the trade.

- 7.1.2 All decisions and enforcement actions taken by the Licensing Authority will be in accordance with the Council's Corporate Enforcement Policy and the principles of consistency, transparency and proportionality set out in the Regulator's Compliance Code.

7.2 Offences

- 7.2.1 The following are offences under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982:-

- engaging in street trading in a prohibited street;
- engaging in street trading in a consent street without Consent;
- contravention of a condition in relation to trading location; and
- contravention of a condition in relation as to the times between which or periods for which a Consent Holder can trade.

7.3 Complaints

- 7.3.1 Where complaints are received regarding the carrying on of street trading activities, these will be investigated in a prompt and professional manner.

- 7.3.2 If a complaint is found to be justified then the following actions may be taken by Officers:-

- verbal warning;
- written warning;
- simple caution;
- prosecution; or
- referral of the Consent Holder to a Licensing Sub-Committee.

- 7.3.3 If an existing Consent Holder is referred to a Licensing Sub-Committee, the Licensing Sub-Committee may take any of the following steps as are deemed desirable to meet the objectives of this Policy:-

- take no further action;
- give a warning to the Consent Holder;
- amend the days on which trading can take place;
- amend the times during which trading can take place;
- amend the location(s) where trading can take place;
- amend the articles that can be traded;
- amend the conditions attached to the Consent;
- amend the duration of the Consent; or
- revoke the Consent.
-

8.0 AMENDMENTS TO THIS POLICY

- 8.1 Any significant amendment to this Policy will only be implemented after further consultation with the trade and the public.

For the purpose of this section, any significant amendment is defined as one that:-

- a) is likely to have a significant financial effect on licence holders;
- b) is likely to have a significant procedural effect on licence holders; or
- c) is likely to have a significant effect on the community.

9.0 FEES AND CHARGES

- 9.1 The fees charged by the Authority for Consents to trade should at least cover the cost of administering and enforcing the service.
- 9.2 The fees will be reviewed at least on an annual basis and published on the Council's website.
- 9.3 It is possible for the Authority to charge different fees for Consents that are for different durations or locations. Different fees can also be charged depending on the nature of the articles being sold and depending on whether the trading takes place at a single location or on a mobile basis.
- 9.4 Street trading fees may be waived at the discretion of the relevant Corporate Head of Service, acting in consultation with the Chairman and Vice-Chairman of the Licensing Committee. Fees may only be waived in relation to charitable or community events, or events of a similar nature. Each event will be judged on its own merits.

10.0 DEFINITIONS

TERM	DEFINITION
Authorised Officer	An Officer of the Council authorised by it to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.
Consent	A Consent to trade on a street granted by the Council, pursuant to Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
Consent Holder	The person or company to whom the consent to trade has been granted by the Council.
Consent Street	A street in which street trading is prohibited without the consent of the Council.
Council	Tewkesbury Borough Council
Days	Refers to consecutive or calendar days unless specified otherwise.
Prohibited Street	A street in which street trading is prohibited
Prime Site	A "Prime Site" category is one where an applicant seeks consent to trade in a street, and regularly occupies the same site for more than 4 hours on any one or more days, and is located within 100 metres of a shopping area as listed.

Street	Any road, footway or other area to which the public have access without payment, or any part of a street, including all roads, footways and areas open as a matter of fact to the public without payment, within the distance of 30 metres from the centre of those streets which are part of the public highway.
Street Trading	<p>The selling or exposing, or offering for sale of any article (including a living thing) in any street. The following are not street trading for the purposes of this Policy:-</p> <ul style="list-style-type: none"> • a pedlar with a Pedlar's Certificate; • anything done in a Market or Fair the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of an Enactment or Order; • trading in a trunk road picnic area provided by the Secretary of State under Section 112 of the Highways Act 1980; • trading as a newsvendor selling only newspapers/magazines; • trading which is carried out at premises used as a petrol filling station, or at premises used as a shop, or in a street adjoining premises so used, and as part of the business of the shop; • selling things, or offering or exposing them for sale, as a rounds man; • the use for trading, under Part VIIA of the Highways Act 1980, of an object or structure placed on, in or over a highway; • the operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980; • the doing of anything authorised by regulations made under Section 5 of the Police, Factories etc (Miscellaneous Provisions) Act 1916.
Street Trading Assistant	<p>A person engaged by the Consent Holder to assist them with their trading.</p> <p>A street trading assistant will be deemed to be assisting a Consent Holder on a regular basis if they will be engaged to assist them on more than 14 days per calendar year.</p>

ANNEX A



LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

SCHEDULE 4

TEWKESBURY BOROUGH COUNCIL

Licensing Section, Council Offices, Gloucester Road, Tewkesbury, GL20 5TT

APPLICATION FOR A STREET TRADING CONSENT

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

1. Type of Application

Grant		Renewal	
12 Month Consent		6 Month Consent	
Other period (please specify)			

2. Personal Details of Applicant

Full Name					
Permanent Address					
Age		Date of Birth		NI Number	

Contact Telephone Number	
--------------------------	--

Are you eligible to work in the United Kingdom?

YES / NO

3. Details of any person(s) who will be assisting with the street trading on a regular basis?

Full Name					
Permanent Address					
Age		Date of Birth		NI Number	

Is this person eligible to work in the United Kingdom?

YES / NO

Full Name					
Permanent Address					
Age		Date of Birth		NI Number	

Is this person eligible to work in the United Kingdom?

YES / NO

5. **Will the trading be carried out:**

From a single fixed location		From a number of locations on a “mobile” basis	
------------------------------	--	--	--

6. **Where is it proposed that the trading will take place? (see Guidance Notes)**

If this location is on private land, can you provide documentary evidence that you have the landowners’ permission to trade from their land?

YES / NO

7. **Trading Hours**

During which hours do you wish to trade on the following days?

Monday		Tuesday	
Wednesday		Thursday	
Friday		Saturday	
Sunday			

8. **Description of the articles to be sold or offered for sale**

--

If selling foodstuffs, are you registered with the relevant Local Authority to carry on a food business? **YES / NO**

9. **Description of any van, cart, barrow, portable stall of other vehicle used for trading including (if applicable) the vehicle registration number**

--

10. **Address where any van, cart, barrow, portable stall of other vehicle used for trading will be kept when not being traded from**

--

12. **Previous Applications / Licences / Consents**

Have you ever been refused a Street Trading Licence or Consent or had such a Licence or Consent revoked? **YES / NO**

If yes give details (continue on a separate sheet if necessary)

--

13. Declaration (See Guidance Notes at the end of this form)

I declare that I have checked the information given on this application form and to the best of my knowledge and believe it is correct.

I understand that I must now advertise my application in accordance with Tewkesbury Borough Council's Street Trading Policy.

I have enclosed all of the following:-

- The relevant fee.
- A plan (where necessary) showing the location where I wish to trade.
- Two passport sized photographs of myself and any regular assistant.
- A copy of my third party public liability insurance.
- Documentary evidence of the landowners permission to trade from their land (where necessary)

I understand that if I fail to comply with the above, my application will be rejected.

Signed _____

Date_____

Print Name _____

For Office Use Only	
Police response received	

Application Form - Guidance Notes

False Statements in Connection with Applications

Any person who, in connection with an application for the grant or renewal of a Consent under this Schedule, makes a false statement which they know to be false in any material respect, or which they do not believe to be true, shall be guilty of an offence. This offence carries a maximum penalty of £1000

Giving Public Notice of the Application

Where the application is for grant of a new Consent in respect of a fixed location, the applicant must advertise their application by displaying the prescribed Public Notice at the relevant location for not less than 14 days beginning with the day after the application for Consent is made to the Council.

Plans / List of Parishes

Where the proposed trading is from a fixed location, a copy of a plan must be provided at a minimum scale of 1:2000, unless an alternative scale has been specified by a Licensing Officer. This plan should clearly identify the proposed site location by marking the site boundary with a red line.

Where the trading is proposed to take place on a mobile basis, a list of the relevant Towns/Parishes in which trading is proposed to take place must be provided along with details where possible about the specific areas in which the trading will take place.

Trading from Private Land

Where the trading is to take place from private land, documentary evidence that the landowner has given their consent to the applicant to trade from their land must be provided.

Prevention and Detection of Fraud

This Authority is under a duty to protect the public funds it administers and to this end, may use the information you have provided on this form for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes. For further information see www.tewkesbury.gov.uk/NFI.

ANNEX B

NOTICE OF APPLICATION FOR GRANT OF A STREET TRADING CONSENT

Name of Applicant	
Location	
Summary of application (hours of trading, articles to be sold, etc):	
<p>NOTICE IS HEREBY GIVEN that an application has been made to Tewkesbury Borough Council for a Consent to carry out street trading at the above location</p> <p>Copies of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (which defines the type of activity that may be carried on under a Consent) and of the application may be inspected at Tewkesbury Borough Council, Council Offices, Gloucester Road, Tewkesbury, GL20 5TT between 9.00 am and 4.00 pm (Monday to Friday except public holidays).</p> <p>Any representations or objections in respect of the above application must be made in writing to the council at the above address by</p> <p>_____</p> <p>(28 days after the date of the application)</p>	

ANNEX C – HEARINGS PROCEDURE

TEWKESBURY BOROUGH COUNCIL

Licensing Sub-Committee (Street Trading)

Procedure

1. The Chairman will ask everyone present to introduce themselves.
2. The Chairman will briefly explain the procedure to members of the public.
3. The Licensing Officer will open the hearing with an outline of the relevant details of the application.
4. The applicant or his/her representative will be invited to present his/her case, at the conclusion of which he/she, together with any witnesses he/she may have called, may be questioned by Members of the Sub-Committee.
5. The Sub-Committee may then invite comments from Officers and, if appropriate, representatives of such bodies as the Police and Fire Authority, following which any objectors, and others wishing to make representations in respect of the application, will be invited to make their submissions. Members of the Sub-Committee may ask questions of all those present.
6. The applicant will then be allowed to make a final statement in response to any objections that have been raised.
7. At the conclusion of the hearing, the stage at which the Sub-Committee will wish to deliberate upon the application, the applicant will be asked to withdraw together with all other parties present. If it is necessary to recall any party to provide further information or clarification all parties at the hearing must be invited to return.
8. When the Sub-Committee has reached its conclusions the parties will be recalled and its decision will be announced to the applicant, accompanied by, as appropriate, a description of any conditions which are to be attached to the grant of a Licence/Consent.

ANNEX D

STREET TRADING CONSENT **STANDARD CONDITIONS**

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

Street Trading Consents are issued by this Council subject to the following Standard Conditions, in so far as they do not conflict with, or are amended by, any special conditions imposed on the grant of a Consent:-

- The Consent shall be valid for the period specified in the Consent, but this period shall not exceed 12 months.
- The Consent may be revoked by the Council at any time.
- A Consent shall be required for each trading unit (e.g. each vehicle or stall).
- A Consent shall not be assigned or transferred.
- Street trading must only be carried on by the Consent Holder or by a person engaged by the Consent Holder to assist in their trading.
- The Consent Holder must provide the name, address and date of birth of any person assisting them with their trading on a regular basis.
- Consent Holders, and any person assisting them on a regular basis, shall at all times, clearly and visibly display a valid identification badge. The badge is to be issued by the Council.
- The Council may vary or make additions to the Conditions or a Consent at any time.
- The Consent shall be limited to the days of the week, and between the hours each day, as stated on the Consent.
- The Consent Holder and/or his assistants shall only sell, or offer for sale, those goods specified in the Consent granted to the Consent Holder.
- The Consent Holder, and/or his assistants, shall only trade at the location(s) specified in the Consent.
- The Consent Holder, and/or his assistants, must not cause an obstruction of any street or endanger any person using it.
- The Consent Holder, and/or his assistants, must not cause nuisance (whether from noise, smell, litter or light) or annoyance by reason of the street trading activity, whether to persons using or living in the street or otherwise. In particular, but without prejudice to the generality of the foregoing, the Consent Holder shall ensure that his customers or patrons conduct themselves in an orderly manner.

- Where a trader trades from a fixed location, at least one refuse container must be provided for use by customers.
- When leaving a site the trader shall ensure that the locations in the immediate vicinity of where he has been trading are clear of refuse and waste arising from the trading.
- Traders must arrange the removal and disposal of waste arising from their trading in a lawful manner.
- No waste matter shall be discharged onto a street or be allowed to enter a highway drain.
- The use and storage of liquefied petroleum gas shall comply with all current, relevant legislation and Codes of Practice.
- No television, radio, tape player or other device used for the entertainment of the Operator, shall be audible outside, or beyond, the trading unit.
- All signs advertising the business must be no more than 50 metres from the trading unit.

NOTE: The requirements as to signs advertising the business do not imply the right to display such signs which may require a necessary planning permission.

- At the end of each trading period the trader shall remove any signs advertising the business, with the exception of those attached to the vehicle or stall used for the purposes of the Street Trading Consent.
- No television, radio, tape player or other device used for the reproduction or amplification of sound during trading shall be at a level which causes nuisance or annoyance to persons using or living in the street.
- Any vehicle, stall or container used by the Consent Holder in the course of street trading shall be constructed and maintained to the satisfaction of all reasonable requirements of the Council, the Police and Highway Authorities as to its construction, safety and appearance.
- The Consent Holder shall, at all times, maintain a valid Third Party Public Liability Insurance Policy to the satisfaction of the Council and shall produce a valid certificate of such insurance at any time upon request by an authorised Officer of the Council.
- The Consent Holder, and/or assistants, shall not trade whilst intoxicated and should behave in a civil and orderly manner at all times when trading.
- Consent holders, and any/or assistants, should wear clean and appropriate clothing.
- The Consent Holder must notify the Council within 7 days if any of the information provided when applying for the consent changes.

A Street Trading Consent does not operate as a consent for any purpose other than to permit the holder to trade on a Consent Street in accordance with any conditions imposed. The Consent Holder must ensure that he has obtained any other consent, approval or registration required under any other statutory provision relevant to his trade.

In these conditions "Consent" means a consent issued under Paragraph 7 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982; "Consent Holder" means the person named on the Street Trading Consent issued by the Council and any person employed by him to assist in his trading; "Council" means the Tewkesbury Borough Council.

ADDITIONAL CONDITIONS APPLICABLE TO MOBILE FOOD VENDORS

USE OF LOUDSPEAKERS TO ATTRACT BUSINESS¹

Chimes should not be sounded:

1. For longer than 4 SECONDS at a time.
2. More often than ONCE every 3 MINUTES.
3. When the vehicle is stationary.
4. Except on approach to a selling point.
5. When in sight of another ice-cream van which is trading.
6. When within 50m of schools (during school hours), hospitals, and places of worship (on Sundays and any other recognised days of worship).
7. More often than ONCE every 2 HOURS in the same street.
8. Louder than 80 dB(A) at 7.5m (Contact your Local Authority for advice).
9. As loudly in quiet areas or narrow streets as elsewhere.

REMEMBER - IT IS AN OFFENCE TO SOUND YOUR CHIMES

1. Before 12 noon and after 1900 hours.
2. At any time in a way which gives reasonable cause of annoyance.

¹ Based on the Control of Noise (Code of Practice on Noise From Ice-Cream Van Chimes etc.) Order 1982

Annex E

Guidelines on the Suitability of Applicants

General Principles

The primary aim of this policy is public protection. To help in achieving that aim, the council will consider the suitability of applicants to be authorised as street traders. Street traders and their commercial activities are often subject to minimum levels of supervision. They interact closely with members of the public and it is important that the public, especially vulnerable people are protected from harm and from those who may harm them, where ever possible.

The Council will determine whether the applicant is a suitable person to carry on business as a street trader and may not issue a licence unless satisfied that the applicant is suitable, in determining this, the authority may have regard to any information, which it considers to be relevant, in particular:

- Whether the applicant has been convicted of any relevant offence;
- Whether the applicant has been the subject of any relevant enforcement action;
- Any previous refusal of an application for the issue or renewal of a street trading consent (and the reasons for the refusal);
- Any previous revocation of a street trading consent (and the reasons for the revocation)

For the purposes of this policy, relevant offences include unspent convictions and cautions, for offences involving dishonesty, the use and supply of controlled drugs, violence and offences of a sexual nature, which are less than 3 years old from the date of application, will be included in the consideration of whether the applicant is a suitable person to hold a licence.

A person with a conviction for a relevant offence will be expected to have remained free of conviction for a period of time, before an application is granted. Some discretion may be exercised if the offence is isolated, minor in nature and there are mitigating circumstances. However, the overriding consideration will always be the protection of the public.

Notwithstanding the above, the Council is aware of its duty not to restrict its discretion and it shall permit representations from the applicant explaining why it may nevertheless, be appropriate to receive consent.

Guidelines on the relevance of convictions

Each case will be decided on its own merits.

(1) The Council will assess whether:

- (a) an applicant for the grant or renewal of a street trading consent is a suitable person to hold or to continue to hold a street trading consent,
- (b) a person who wishes to be registered as an assistant to a street trading consent holder or to continue to be registered as an assistant to a street

trading consent holder is a suitable person to be registered as an assistant to a street trading consent holder.

In making that assessment, the Council consider the previous convictions of such persons.

- (2) In considering the previous convictions of those persons mentioned in paragraph 1 the Council will consider the following:-
- (a) whether the conviction is relevant;
 - (b) the seriousness of the offence;
 - (c) the length of time since the offence occurred;
 - (d) whether there is a pattern of offending behaviour;
 - (e) whether that person's circumstances have changed since the offence occurred;
 - (f) the circumstances surrounding the offence and the explanation offered by that person.
- (3) The following examples provide a general guide on the action to be taken where relevant convictions and cautions are evident

(a) Offences involving Violence

Applicant with convictions for offences involving violence will be considered carefully. Depending on the nature and seriousness of the offence, when applicants have convictions for causing grievous bodily harm, wounding, assault, or even more serious offences involving violence. In general, a period of three to ten years free of convictions should elapse before an application will be granted.

(b) Drug related offences

An isolated conviction for a drug offence, whether for unlawful possession only or involving the supply of controlled drugs, will not necessarily prevent an applicant from obtaining a street trading consent, provided the applicant has at least three years free of convictions.

An application will normally be refused where an applicant has more than one conviction for offences related to the possession of drugs and the last conviction or the date of release from jail, where a custodial sentence has been imposed, is less than 5 years before the date of the application.

(c) Sexual offences

Applicants with any unspent sexual related offences will not normally be granted a street trading consent.

(d) Dishonesty

The holders of a street trading consent and their assistants have to be persons who can be trusted. It is easy for a dishonest trader or assistant to take advantage of the public. Members of the public using a street trading outlet expect the holder and his assistant to be honest and trustworthy. For these reasons a serious view will be taken of any conviction involving dishonesty.

Convictions for isolated minor offences will not necessarily prevent an applicant from obtaining a street trading consent but in cases involving serious theft or fraud, at least three years should elapse before an application is granted. When offences of

dishonesty have been accompanied by violence, at least five years free of conviction should elapse before an application will be granted.

(e) Motoring Convictions

In most cases, motoring offences are unlikely to be relevant when deciding if an applicant for a street trading consent or to be registered as an assistant to the holder of a street trading consent is a suitable person. However, there may be instances where the offences are of a very serious nature. In those cases, an applicants would be expected to show a period of at least 3 years free of any such convictions from the date of conviction or the date of release from jail, where a custodial sentence has been imposed.

(f) Formal Cautions and fixed penalty notices.

For the purposes of these guidelines, the Council will treat Formal Cautions issued in accordance with Home Office guidance and fixed penalty notices as though they were a conviction before the courts.

In all cases, each individual application will be decided on its own merits.

Disclosure and Barring (DBS)

All application forms must be accompanied by an enhanced disclosure as the Council must be satisfied that he applicant is a suitable person.

If any unspent convictions or cautions are declared, depending on their nature, then the Council may as part of the application process hold a hearing to determine whether the applicant is a suitable person to hold a street trading consent. The application will not proceed until the suitability of the applicant has been determined.

TEWKESBURY BOROUGH COUNCIL

Report to:	Licensing Committee
Date of Meeting:	18 October 2018
Subject:	Licensing General Update
Report of:	Environmental Health Manager
Corporate Lead:	Head of Community Services
Lead Member:	Lead Member for Clean and Green Environment
Number of Appendices:	None

Executive Summary:

This report provides an update to Members in respect of the significant changes to Houses in Multiple Occupation licensing and the Animal Welfare Regulations 2018 which came into effect on 1 October 2018.

Recommendation:

To CONSIDER the updates in respect of:

- i. the changes to the Houses in Multiple Occupation Regulatory Regime; and
- ii. implementation of the Animal Welfare Regulations 2018.

Reasons for Recommendation:

To update Members in relation to the significant changes to Houses in Multiple Occupation licensing and the Animal Welfare Regulations 2018 which came into effect on 1 October 2018.

Resource Implications:

There are no significant resource implications arising from this report

Legal Implications:

There are no significant legal issues arising from this report.

Risk Management Implications:

None.

Performance Management Follow-up:

A further update will be provided at the Licensing Committee on 14 February 2019.

Environmental Implications:

None.

1.0 INTRODUCTION/BACKGROUND

1.1 At its meeting on 14 June 2018, the Licensing Committee received an update in respect of recent changes to licensing legislation that is likely to have a significant impact upon the Council.

1.2 This report provides a further update on the impact of the changes to the regulation of Houses in Multiple Occupation (HMO) and the introduction of the Animal Welfare Regulations 2018.

2.0 HOUSE IN MULTIPLE OCCUPATION (HMO)

2.1 As advised at Licensing Committee on 14 June 2018 there has been a tightening of the regulation of HMOs. The previous licensing requirement for HMOs only applied to properties of three stories or more. As of 1 October, the licensing requirement applies to properties of that are two stories high or above with at least five tenants that form more than one household. At the previous Licensing Committee it was advised that, based on discussions at County level, it was estimated that there could potentially be around 100 additional HMOs within Tewkesbury Borough.

2.2 To date, the Council has been contacted by seven landlords wishing to apply to have their properties licensed; these are currently being processed. This figure is in line with similar authorities such as Stroud District Council. The figure is significantly less than predicted and a strategy is being put in place to try and identify other HMO's that meet the latest requirements. This strategy will involve the following:

- Writing to all properties where the address of the Council Tax payer differs from the actual property address.
- Writing to all Estate and Letting Agents.
- Carrying out a further publicity campaign.
- Engaging and informing other departments, services and strategic partners with a view to gaining intelligence.

2.3 It is a requirement that any fees applied relating to the licensing regime adequately reflect the costs to the Council of processing an application and managing that application during the period of the licence. The previous fee was a Countywide fee of £450. This has subsequently been reviewed to reflect the actual costs to the Council. The revised fee will now be £870 for a five year licence. This compares with £650 for a three year licence in Cheltenham, £830 for a five year licence in Stroud, £820 for a five year licence in Gloucester and Forest of Dean and Cotswold are still charging £450 for a three year licence, however, this fee is currently under review.

3.0 ANIMAL WELFARE REGULATIONS 2018

3.1 As advised at the previous Licensing Committee meeting, the Animal Welfare Regulations 2018 came into force on 1 October 2018. These regulations have the potential to significantly increase the number of animal activities that are licensed. The Council has so far received one query regarding the regulations.

3.2 Statutory guidance relating to these regulations was released at the beginning of September and further guidance is due to be released relating to a charging scheme and the inspection of animal activities.

- 3.3** A Countywide group has been established to consider the guidance and develop procedures and policies for implementing the regulations.
- 3.4** A further update on these regulations will be provided at the Licensing Committee on 14 February 2019.
- 4.0 OTHER OPTIONS CONSIDERED**
- 4.1** N/A
- 5.0 CONSULTATION**
- 5.1** N/A
- 6.0 RELEVANT COUNCIL POLICIES/STRATEGIES**
- 6.1** N/A
- 7.0 RELEVANT GOVERNMENT POLICIES**
- 7.1** N/A
- 8.0 RESOURCE IMPLICATIONS (Human/Property)**
- 8.1** None
- 9.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)**
- 9.1** None arising out of this report
- 10.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)**
- 10.1** None arising out of this report
- 11.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS**
- 11.1** None arising out of this report

Background Papers: None.

Contact Officer: Environmental Health Manager
01684 272117 gordon.buchanan@teWKesbury.gov.uk

Appendices: None

TEWKESBURY BOROUGH COUNCIL

Report to:	Licensing Committee
Date of Meeting:	18 October 2018
Subject:	Licensing Audit Action Plan
Report of:	Environmental Health Manager
Corporate Lead:	Head of Community Services
Lead Member:	Lead Member for Clean and Green Environment
Number of Appendices:	One

Executive Summary:

This report provides an update on the progress made against the actions arising from the internal audit of the licensing function, carried out in October 2017.

Recommendation:

To CONSIDER progress made against the Licensing Audit Action Plan.

Reasons for Recommendation:

To update Members on progress.

Resource Implications:

There are no significant resource implications arising from this report

Legal Implications:

There are no significant legal issues arising from this report.

Risk Management Implications:

The actions relate to general procedural improvements that, when implemented, would reduce risk.

Performance Management Follow-up:

Progress against the Action Plan will be reported at subsequent Licensing Committees.

Environmental Implications:

None.

1.0 INTRODUCTION/BACKGROUND

- 1.1** In October 2017, an internal audit of the Council's licensing function was carried out. The internal audit report made a number of recommendations and an action plan was subsequently put in place to deliver these recommendations.

2.0 PROGRESS AGAINST THE LICENSING AUDIT ACTION PLAN

- 2.1** The Licensing Audit Action Plan is attached at Appendix 1 and set out progress to date.

- 2.2** Whilst the majority of actions have been completed, there are four actions that require further, work. These are as follows:

- **The requirement to provide LOLER certificates** - This requires an amendment to the Council's Hackney Carriage (Taxi) and Private Hire Policy which is currently being reviewed.
- **Safeguarding Training for Taxi Drivers** - Safeguarding training was provided for the majority of the taxi drivers in March and April. Further training sessions are being arranged for November in order to accommodate any drivers who were unable to attend the initial sessions, and for new drivers. More regular training options are also being considered with Cheltenham Borough Council.
- **Cost recovery of fees associated with animal boarding establishments** - Since the original audit was carried out in October 2017, the Animal Welfare Regulations have come into force. These regulations introduce a new inspection and rating regime and a new charging scheme is currently being developed as a result.
- **Requirement to carry out inspections of licensed premises and introduce risk rating to these premises** - It had been intended to incorporate the inspection regime into the food inspection regime; however, the Environmental Health Team has been under-resourced for much of the year and has relied had on contractors at various points throughout the year. A review of Community Services has just been completed and the new structured introduced. There are a number of vacant posts which are currently being recruited to; as soon as the vacant posts are filled, the inspection regime will be incorporated into the food inspection regime.

3.0 OTHER OPTIONS CONSIDERED

- 3.1** N/A

4.0 CONSULTATION

- 4.1** N/A

5.0 RELEVANT COUNCIL POLICIES/STRATEGIES

- 5.1** N/A

6.0 RELEVANT GOVERNMENT POLICIES

- 6.1** N/A

7.0 RESOURCE IMPLICATIONS (Human/Property)

- 7.1** None

8.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

8.1 None arising out of this report.

9.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

9.1 None arising out of this report.

10.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

10.1 None arising out of this report.

Background Papers: None

Contact Officer: Environmental Health Manager
01684 2720117 gordon.buchanan@tewkesbury.gov.uk

Appendices: Appendix 1 – Licensing Audit Action Plan

Licensing Audit Action Plan

No	Recommendation/ Action	Responsible Officer	Target Date	Status	Progress To Date
1	<u>Licensing Act in General</u>				
1.1	Copies of licences issued should be retained	Environmental Health Manager	April 2018	✓	Copies of all licences are Idoxed and attached to the Uniform record.
	<u>Premises Licences</u>				
1.2	A review of current premises licences and debtors should be undertaken to ensure that all annual payments have been raised	Environmental Health Manager	April 2018	✓	A debtors report is sent from Finance to Tech Admin every Friday - Tech Admin check who has paid and who has not. Those that have not paid are contacted and the debt chased up. Where the debt is not paid licence is suspended.
1.3	The debtor report issued to licences should be issued at least 28 days prior to the debt invoice being raised; amendments to this report by licences should be undertaken promptly and reported back with the relevant licence application reference within this timescale.	Environmental Health Manager	April 2018	✓	For premises licences, fees that are not paid will result in licences being suspended.

No	Recommendation/ Action	Responsible Officer	Target Date	Status	Progress To Date
1.4	Debtors invoices (included annual invoices) raised in connection with licences should clearly demonstrate the licence application reference.	Environmental Health Manager	April 2018	✓	Invoices contain reference number.
<u>Personal Licences</u>					
1.5	A review of personal licence information of the councils website should be undertaken to ensure that it is up to date with current practices and additional information is provided in relation to notifiable offences.	Environmental Health Manager	April 2018	✓	Council's website has been updated.
<u>Temporary Event Notices</u>					
1.6	The website and online forms should be updated to provide definition on what is a premises user.	Environmental Health Manager	April 2018	✓	Council's website has been updated.

No	Recommendation/ Action	Responsible Officer	Target Date	Status	Progress To Date
1.7	A process should be established to monitor the number of events operated by a premises user. In this connection the Temporary Events Notices submitted via Cotswolds Markets should be reviewed in order to ensure compliance with this requirement.	Environmental Health Manager	April 2018	✓	Instruction given relating to entering information onto Uniform correctly. If information is entered correctly then Uniform automatically highlights the number of Temporary Events that relate to particular individual.
2.1	A proximity check should be demonstrated for street traders operating close to prime site.	Environmental Health Manager	January 2018	✓	All street trading applications checked against prime sites when received.
3.1	The six monthly LOLER certificates need to be provided to the Council on a regular basis.	Environmental Health Manager	April 2018	☹	A more extensive review of the Taxi Licensing Policy is currently being undertaken. The requirement to submit LOLER certificates will be included in revised policy.

No	Recommendation/ Action	Responsible Officer	Target Date	Status	Progress To Date
3.2	The safeguarding policy requirements should be implemented (see safeguarding audit 2016/17).	Environmental Health Manager	April 2018	☺	Safeguarding training courses for taxi drivers were run in March/April. The majority of taxi drivers received this training but a small number were not able to make the original dates. These drivers were advised that further training would be run later in the year for new drivers and they would be able to do the training at this time. Further training dates are being planned for November 2019. Discussions are also currently taking place with Cheltenham Borough Council with regards to developing a training day which will include: safeguarding training, equalities training, wheelchair access training etc. It is anticipated this will be available in the first quarter of 2019.
3.3	Payments receipted should be at the current fee rate.	Environmental Health Manager	April 2018	✓	All payments are at current rates. A review of taxi fees is currently ongoing to ensure full cost recovery. This will be completed by the end of November.
4.1	The website information should be updated to provide details on the home visits undertaken by the Environmental Health Officers and the change in the veterinary procedures.	Environmental Health Manager	September 2018	✓	Website has been updated

No	Recommendation/ Action	Responsible Officer	Target Date	Status	Progress To Date
4.2	To update the home visit check sheet to include confirmation of the number of units to ensure the correct fee has been received.	Environmental Health Manager	September 2018	✓	The home visit check sheet will be updated to reflect this.
4.3	To check that all animal licences are renewed at the beginning of each year and undertake the appropriate enforcement action for non-renewals.	Environmental Health Manager	September 2018	✓	Animal licences that are not renewed are contacted to establish if they are still operating. Where they are, then fees chased and advised of enforcement action where continue to operate without licence.
4.4	A review of the fees to ensure full cost of the service including the home visits has been taken into consideration.	Environmental Health Manager	September 2018	😊	New animal welfare regulations have just come into force. A fees and charging scheme is currently being developed to reflect the new enforcement regime.

No	Recommendation/ Action	Responsible Officer	Target Date	Status	Progress To Date
5.1	<p>The receipt date of the application for all licence types should be correctly reflected within the Uniform system.</p> <p>All consultees should be listed for each licence type.</p> <p>In respect of animal boarding, visit dates and Officer details should be recorded within Uniform.</p>	Environmental Health Manager	January 2018	✓	Instruction has been given regarding the correct input of data onto uniform. Random checking is carried out by Environmental Health Manager and Principle Environmental Health Officer.
5.2	Outstanding balances should be reviewed to ensure that these are not error entry lines	Environmental Health Manager	January 2018	✓	All outstanding balances have been reviewed. Any balances that accumulate in this financial period will be pursued and the licence suspended where payment not received.
5.3	The trading times of a Street trader should be correctly entered into Uniform.	Environmental Health Manager	January 2018	✓	All street trader entries on Uniform have been reviewed and reflect trading times.

No	Recommendation/ Action	Responsible Officer	Target Date	Status	Progress To Date
6	A staged approach will be adopted to the reconciliation process. Initially annual licence's will be checked against the general ledger and then further licences will be added once the format of the reconciliation process and Officers' understanding of the general ledger have been established.	Environmental Health Manager	April 2018	✓	Officers have now been given training and access to the general ledger and can now input directly onto it.
7	A programme of inspections for licenced premises will be carried out in the 2018 calendar year. Based on the inspections, a risk assessment will then be performed and entered into the uniform system.	Environmental Health Manager	April 2019	☹	Due to reduced resources throughout this year, it has not been possible to begin the programme of inspections. As part of the current service review a Senior Licensing Officer will be recruited. It is expected that this post will be filled by end December 2018. At which point an inspection programme will be put in place.

No	Recommendation/ Action	Responsible Officer	Target Date	Status	Progress To Date
8	Service requests such as noise complaints that can be associated with a licenced premises should be dealt with through the licencing module.	Environmental Health Manager	April 2018	✓	<p>All service requests relating to licensed premises are attached to that premises through the service request module or logged on as standard service requests. When risk assessments are carried out, history of complaints will be readily available to be considered when scoring. The risk scoring will be on the licencing module. It is useful to log noise complaints onto Uniform under the service requests module as this allows noise complaints to be broken down using existing codes. To add these complaints to the licensing module is to add another procedure for no real benefit.</p> <p>A random sample of licensed premises will be audited to confirm that complaints are registered against them and this information is readily available for risk assessing.</p>
9	An online facility for the public to report licensable complaints should be provided.	Environmental Health Manager	June 2018	✓	Website has been updated in order that licensed premises can be report through "Report It".

STATUS KEY

😊	Action is progressing well and on target to achieve completion date/within agreed budget (if applicable) etc.
😐	Action has some issues or delays but is likely to achieve completion date/within agreed budget (if applicable) etc.
😞	Significant risk to not achieving the action or there has been significant slippage in the timetable.
✓	Action is complete.
	Action not yet commenced. (may not yet be programmed for action)