



LICENSING COMMITTEE

MEETING TO BE HELD IN CIVIC HALL, LEEDS ON
TUESDAY, 14TH AUGUST, 2012 AT 10.00 AM

MEMBERSHIP

Councillors

S Armitage - Cross Gates and Whinmoor;
K Bruce - Rothwell;
N Buckley - Alwoodley;
R Charlwood - Moortown;
R Downes - Otley and Yeadon;
J Dunn - Ardsley and Robin Hood;
B Gettings - Morley North;
T Hanley - Bramley and Stanningley;
G Hussain - Roundhay;
G Hyde - Killingbeck and Seacroft;
A Khan - Burmantofts and Richmond Hill;
P Latty - Guiseley and Rawdon;
B Selby - Killingbeck and Seacroft;
C Townsley - Horsforth;
G Wilkinson - Wetherby;

Agenda compiled by:
Tel No:
Governance Services
Civic Hall
LEEDS LS1 1UR

Helen Gray
247 4355

A G E N D A

Item No	Ward/Equal Opportunities	Item Not Open		Page No
1			<p>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</p> <p>To consider any appeals in accordance with Procedure Rule 25 of the Access to Information Procedure Rules (in the event of an Appeal the press and public will be excluded)</p> <p>(*In accordance with Procedure Rule 25, written notice of an appeal must be received by the Head of Governance Services at least 24 hours before the meeting)</p>	
2		*11 Appendix 2	<p>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</p> <p>1 To highlight reports or appendices which officers have identified as containing exempt information, and where officers consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report.</p> <p>2 To consider whether or not to accept the officers recommendation in respect of the above information.</p> <p>3 If so, to formally pass the following resolution:-</p> <p>RESOLVED – That the press and public be excluded from the meeting during consideration of those parts of the agenda designated as containing exempt information on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information</p>	

Item No	Ward/Equal Opportunities	Item Not Open		Page No
3			<p>LATE ITEMS</p> <p>To identify items which have been admitted to the agenda by the Chair for consideration</p> <p>(The special circumstances shall be specified in the minutes)</p>	
4			<p>DECLARATION OF DISCLOSABLE PECUNIARY AND OTHER INTERESTS</p> <p>To disclose or draw attention to any disclosable pecuniary interests for the purposes of Section 31 of the Localism Act 2011 and paragraphs 13 -18 of the Members' Code of Conduct. Also to declare any other significant interests which the Member wishes to declare in the public interest, in accordance with paragraphs 19 -20 of the Members' Code of Conduct.</p>	
5			<p>APOLOGIES FOR ABSENCE</p>	
6			<p>MINUTES</p> <p>To approve the minutes of the last meeting held on 24th July 2012</p> <p>(Copy attached)</p>	3 - 8
7			<p>LAW COMMISSION CONSULTATION PAPER "REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES" - DRAFT RESPONSE FOR APPROVAL</p> <p>To consider the report of the Head of Licensing and Registration setting out the Council's draft response to the Law Commission consultation paper entitled "Reforming the law of Taxi and Private Hire Services"</p> <p>(Report attached)</p>	9 - 36

Item No	Ward/Equal Opportunities	Item Not Open		Page No
8			<p>HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S PETITION FOR EQUAL RIGHTS AND ALLEGED UNLAWFUL APPLICATION OF IMMEDIATE SUSPENSION POWERS</p> <p>To consider the joint report of the Chief Officer, Democratic & Central Services and the City Solicitor providing the Committee with information on how to respond to the issues raised in a petition submitted on behalf of Alpha Hire and Hackney Welfare Society.</p> <p>(Report attached)</p>	37 - 46
9			<p>REVISIONS TO THE CODE OF PRACTICE FOR DETERMINING LICENSING MATTERS</p> <p>To consider the report of the City Solicitor advising the Committee of the changes made to the Code of Practice for the Determination of Licensing Matters made by the Standards and Conduct Committee following the introduction of the new standards regime on 1 July 2012</p> <p>(Report attached)</p>	47 - 66
10			<p>ENTERTAINMENT LICENSING SECTION - ENFORCEMENT AND LIAISON TEAM ENFORCEMENT ACTIVITY UPDATE (APRIL TO JUNE 2012)</p> <p>To consider the report of the Head of Licensing and Registration providing an update to the activities of the Entertainment Licensing Sections' (ELS) Liaison and Enforcement Team who work with premises and partner agencies to promote the licensing objectives and licence compliance</p> <p>(Report attached)</p>	67 - 74

Item No	Ward/Equal Opportunities	Item Not Open		Page No
11		10.4(3)	<p>LEEDS FESTIVAL 2012</p> <p>To consider the report of the Head of Licensing and Registration advising Members of the progress of the multi agency meetings and the Event Management Plan for the Leeds Festival 2012</p> <p>(Report attached)</p> <p>Please Note : Appendix 2 of the report is designated exempt under Access to Information Procedure Rule 10.4 (3)</p>	75 - 92
12			<p>LICENSING WORK PROGRAMME</p> <p>To note the contents of the Licensing Work Programme</p>	93 - 94
13			<p>DATE AND TIME OF NEXT MEETING</p> <p>To note the date and time of the next meeting as Tuesday 11th September 2012 at 10:00 am</p>	

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CONFIDENTIAL AND EXEMPT ITEMS

The reason for confidentiality or exemption is stated on the agenda and on each of the reports in terms of Access to Information Procedure Rules 9.2 or 10.4(1) to (7). The number or numbers stated in the agenda and reports correspond to the reasons for exemption / confidentiality below:

9.0 Confidential information – requirement to exclude public access

9.1 The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed. Likewise, public access to reports, background papers, and minutes will also be excluded.

9.2 Confidential information means

- (a) information given to the Council by a Government Department on terms which forbid its public disclosure or
- (b) information the disclosure of which to the public is prohibited by or under another Act or by Court Order. Generally personal information which identifies an individual, must not be disclosed under the data protection and human rights rules.

10.0 Exempt information – discretion to exclude public access

10.1 The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed provided:

- (a) the meeting resolves so to exclude the public, and that resolution identifies the proceedings or part of the proceedings to which it applies, and
- (b) that resolution states by reference to the descriptions in Schedule 12A to the Local Government Act 1972 (paragraph 10.4 below) the description of the exempt information giving rise to the exclusion of the public.
- (c) that resolution states, by reference to reasons given in a relevant report or otherwise, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

10.2 In these circumstances, public access to reports, background papers and minutes will also be excluded.

10.3 Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

10.4 Exempt information means information falling within the following categories (subject to any condition):

- 1 Information relating to any individual
- 2 Information which is likely to reveal the identity of an individual.
- 3 Information relating to the financial or business affairs of any particular person (including the authority holding that information).
- 4 Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or officer-holders under the authority.
- 5 Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- 6 Information which reveals that the authority proposes –
 - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment
- 7 Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime

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Agenda Item 6

Licensing Committee

Tuesday, 24th July, 2012

PRESENT: Councillor S Armitage in the Chair

Councillors N Buckley, R Downes, J Dunn,
T Hanley, G Hussain, G Hyde, A Khan,
P Latty and C Townsley

- 27 Exempt Information - Possible Exclusion of the Press and Public**
RESOLVED – That the public be excluded from the meeting during the consideration of the following parts of the agenda designated as exempt on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present there would be disclosure to them of exempt information so designated in Appendix A to the report referred to in Minute No. 33 under the terms of Access to Information Procedure Rule 10.4(3) and on the grounds that several licensed premises are identified within the Appendix and open discussions on the contents would be prejudicial to the good working relationships established between the licensing authority, West Yorkshire Police and the premises and could additionally prejudice their business interests. As a result, withholding the information within appendix A was considered to outweigh the public interest benefit of its release.
- 28 Late Items**
No formal late items of business were added to the agenda, however the Chair noted and agreed to a request from Councillor Charlwood to table information obtained from the Object website relating to SEV applications at the meeting. (minute 36 refers)
- 29 Declaration of Disclosable Pecuniary and other Interests**
No disclosable pecuniary interests or other interests were declared.
- 30 Apologies for Absence**
Apologies for absence were received from Councillors Bruce, Charlwood, Gettings, Selby and Wilkinson. The Chair requested that a letter be sent to Councillor Gettings wishing him a speedy recovery from his recent accident.
- 31 Minutes**
RESOLVED – That the minutes of the previous meeting held 20th July 2012 be agreed as a correct record
- 32 Matters Arising**
Minute 14 Alpha Radar – The Committee noted two matters,
a) A petition had been received from Alpha Hire and Hackney Welfare Society containing 255 signatories relating to the concerns of some hackney carriage and private hire drivers over the use of powers to issue immediate suspensions to drivers including those considered to be plying for hire. Members noted that the relevant Policy had been approved in 2007 and had

been discussed on numerous occasions since. Officers reported that a response to the petition and issues raised in the accompanying letter from Alpha Hire and Hackney Welfare Society would be presented to the August Committee meeting

- b) Receipt of further legal advice relating to what action could be taken over the communications and newsletters produced by Alpha Radar and what support the Council could offer to Committee Members who wished to pursue the matter

Minute 17 letter of condolence – the clerk to confirm that a letter of condolence had been sent to the widow of Mr Yousaf

Minute 21c) CRB checks – noted assurances that a report would be presented in due course on the uptake of the three yearly Drivers Licence and giving consideration to whether those drivers suitable for a three year drivers licence could also deal with their three yearly CRB check (if that policy was adopted) at the time of their licence renewal

33 Policing and the Night Time Economy

The Chief Officer, Democratic & Central Services, submitted a report by way of introduction to a presentation from West Yorkshire Police (WYP) on issues relating to policing and the night time economy. WYP had submitted statistical information on the performance of some of the licensed premises within the city centre. This was contained at Appendix A of the report and was designated as exempt.

The Committee welcomed Sergeant R Fullilove, Leeds District Licensing Officer, Chief Inspector S Palmer, and Mr T Gorbet of Luminar Leisure. Sgt Fullilove recalled a previous presentation on the operation of the Matrix system used by WYP to monitor premises in the city centre when the Committee had requested that a city centre operator be invited to report on their experience of managing a city centre premises, liaison with WYP and the Matrix system.

Mr T Gorbet, Regional Director of Luminar Leisure addressed the meeting and provided Members with an outline of the licensed history of the Leeds Oceana premises and the incidents which had seen that premises feature at the top of the WYP Matrix system. Mr Gorbet detailed the management measures now implemented at the premises which had successfully addressed the problems which included:

- The introduction of a self imposed Operating Plan and closer liaison with WYP
- The introduction of incident mapping (when/where and why incidents occurred) and employment of an incident manager
- Replacement of the Door Team and more effective deployment of doorstaff throughout the premises using the information gleaned through incident mapping
- The search ratio of patrons had increased to 1:6.
- Amendment to the dispersal policy to stagger closing times throughout the premises which benefited from a 2,500 capacity spread throughout 7 rooms on 3 floors.

Further discussions also highlighted the changes made to the drinks charging policy and the management and promotion of the Under 18's night. Mr Gorbet stated he regarded the measures as being a common sense approach to managing a large capacity venue, and had not incurred great cost. He also noted that footfall had actually increased and that the number of accrued Matrix points had now reduced from 130 to 36, whilst retaining the same DPS and same hours of operation

The Committee commended the management team on their effort to tackle the problems at the premises, to work with WYP and reduce the points on the Matrix. Members felt the Matrix system had had an obvious and positive impact on the running of the venue. It was agreed that a meeting between Mr Gorbet and officers should take place where the matters raised could be used to create a case study for future reference with practical suggestions for other premises which may experience similar difficulties.

The Committee, noting the remainder of the presentation would deal with issues raised in Appendix A of the report

RESOLVED –

- a) To note the comments made during the open discussions and to thank Mr Gorbet for his presentation, and
- b) To enter into closed session to discuss the contents of appendix A

34 Closed Session - Policing and the Night time Economy (10.4 (7))

Sgt Fullilove and Ch Ins Palmer presented the information contained within Appendix A and discussed the nature of problems experienced by licensed premises in the city centre and those premises featured in the Matrix system (Councillor Hanley withdrew from the meeting for a short while at this point)

RESOLVED –

- a) To note the contents of the report and Appendix 1 and the comments made during the discussions with representatives of West Yorkshire Police
- b) To enter into open session to consider the remaining business on the agenda

(Councillor Khan withdrew from the meeting for a short while at this point)

35 Appeals Under the Licensing Act 2003

The Committee considered the report of the City Solicitor providing an update on the outcome of recent appeals heard in Leeds Magistrates Court against the decisions of the Licensing Sub Committees. Members attention was directed to those appeals where the magistrates had supported the City Centre Cumulative Impact Policy (Area 1) and those where the appeal had been compromised – due to new evidence or a change in circumstances.

The Legal Adviser also provided further detail on the case and outcome of an appeal relating to the Shell Pool Bridge premises and reported that the Council was now seeking a Judicial Review of the award of costs against the Council. Members noted with interest that there had been an appeal in respect of a decision taken by East Hampshire Licensing Authority (which had considered similar issues and evidence), but that Shell UK had lost that

appeal and was now reportedly seeking a Judicial Review of the Magistrates decision.

Members also discussed the possibility that different sub committees may take different approaches to the city centre CIP and the possible impact this could have on any future appeals to the Magistrates Court. Members noted the report that a firm of Leeds solicitors published an article on their website containing advice to applicants on how to deal with applications in CIP areas. The Committee agreed that a copy of that article should be made available to Members and that discussions on the approach to the CIP and how to critically examine requests to depart from it should be included within the next licensing training sessions.

RESOLVED – That the contents of the report be noted and that a copy of the article providing advice to applicants within CIP areas be sent to Members

36 Working Groups for Licensing Act and Sex Establishment Policy Reviews

The Head of Licensing and Registration submitted a report setting out the background to proposals to establish two Working Groups to deal with a review of the Council's own Licensing Act 2003 Statement of Licensing Policy and a review of the Sex Establishment Statement of Licensing Policy. The timetable for undertaking the reviews was included within the report and Members were requested to consider the membership of the Working Groups. The Committee noted that Members of the previous SEV Working Group may be invited to attend future meetings of the new SEV Working Group

RESOLVED – That the contents of the report be noted and the memberships of the Working Groups be as follows

- a) Sexual Entertainment Venue Working Group – Councillors Bruce, Charlwood, Khan, Downes and Townsley
- b) Licensing Act 2003 Statement of Licensing Policy Working Group – Councillors Armitage, G Hussain, G Hyde, Dunn and P Latty

37 Gambling Act 2005 - Large Casino - Formulation of Advisory Panel

The Head of Licensing and Registration submitted a report on the formulation and membership of the Advisory Panel which will provide a detailed appraisal of each of the Large Casino Stage 2 applications. A schedule of the proposed membership was attached at Appendix 1 for the Committees approval.

The Committee noted the Panel comprised of independent advisors from the legal, commercial and casino sectors and also included representatives who could relate to the social, equality and health sectors. Officers reported that the Panel would be Chaired by Mr T Bridges – the recently appointed LCC Chief Economic Development Officer

RESOLVED – That the contents of the report be noted and approval be given to the membership of the Advisory Panel

38 Licensing Work Programme

RESOLVED – That the content of the Licensing Work Programme, with the additions made at this meeting, be noted

39 Date and Time of Next Meeting

RESOLVED – To note the date and time of the next meeting as Tuesday 14th August 2012 at 10:00 am

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Report of the Head of Licensing and Registration

Report to Licensing Committee

Date: 14 August 2012

Subject: Law Commission Consultation Paper 'Reforming the Law of Taxi & Private Hire Services' – Draft Response for Approval

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. The Law Commission has been tasked with reviewing the existing Hackney Carriage and Private Hire legislation.
2. The Commission has committed itself to research, including meeting with Licensing Officers, and has produced a consultation paper on the reform proposals. The deadline for responses to the consultation is 10 September 2012.
3. At the Licensing Committee meeting of 24 July 2012, Members asked that the draft response to the consultation return to the Licensing Committee for final approval. That draft response is attached to this report at Appendix A.

Recommendations

4. That Members approve or amend the draft response at Appendix A, agreeing a final version to return to the Law Commission before their deadline of 10 September 2012.

1 Purpose of this report

- 1.1 To share the draft response to the consultation with Members for any further discussion and any amendment before agreeing a final version to be submitted to the Law Commission by 10 September 2012.

2 Background information

- 2.1 The primary existing Hackney Carriage legislation dates back to 1847, with a variety of supplementary Acts in-between. The most relevant Act is the Local Government (Miscellaneous Provisions) Act 1976 which was brought into effect to deal with a previously unlicensed private hire service. The 1976 Act also updated legislation around hackney carriages.
- 2.2 There have been difficulties around the various Acts which have not always mixed well with changes in society and developing technology. There are opposing views around the country on what shape reform should take, even between licensing officers. The constant pressure for reform from a variety of sources has resulted in the Law Commission undertaking the first stage of review.
- 2.3 The consultation paper sets out the regulatory and licensing framework and uses all of the interactions with the existing legislation to highlight problems with the law and the case for reform. The paper then addresses provisional proposals for reform across the whole of the key functions of licensing regulation and considers consumer benefits and the removal of some business restrictions as key factors.
- 2.4 At the 24 July 2012 meeting of the Licensing Committee, Members asked officers to draft a response to the consultation and email it to all committee members for any comments, before returning to committee with the final draft for approval.

3 Main issues

- 3.1 The paper contains a multitude of proposals which required careful consideration. What seems to be evident is that some of the proposals have a sound basis for moving forward, i.e. a national minimum standard for drivers and vehicles; whilst others seem to take little account of the reality of the safety and customer care issues facing the larger licensing authorities so often apparent in the trade. For example, removing some Local Authority powers and limiting the regulation on drivers to address bottom-line safety concerns only, which, in effect, might cause the removal of English comprehension testing or local knowledge testing conditions which are locally set. There are also missed opportunities, i.e. owners of licensed vehicle should not be subject to fit and proper tests or other forms of compliance.
- 3.2 Officers have now drafted a response which takes account of Members concerns that it is a comprehensive, proportionate and robust response to the areas of concern and at the same time supports national improvements, taking the opportunity to contribute to the proposed minimum standards.
- 3.3 Members should note that the draft response now also includes additional comments at Provisional Proposal 1 and Question 55 from the council's Transport Policy Section in City Development. These comments include greater detail of the

congestion and transport box issues Leeds could face with any increase in hackney carriage vehicles,

- 3.4 The draft response is at Appendix A for any further discussion and any amendment before agreeing a final version to be submitted to the Law Commission before 10 September 2012.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Leeds City Council is an individual consultee and the response to this consultation is on behalf of Leeds City Council. The trade or other interested stakeholders have been advised to provide their own response to this consultation.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 This is primarily a responsibility for the authors of the consultation paper but officers have ensured wider knowledge of the paper as requested by Members by sending details of the consultation to all Councillors, trade representatives, operators and associations by email and publishing details on the Council's internet site for the public.

4.3 Council Policies and City Priorities

- 4.3.1 All Council policies and city priorities were considered when discussing the proposals and in drafting the response to the consultation.

4.4 Resources and Value for Money

- 4.4.1 There are no resources or value for money issues as this is a response to a consultation document.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 The proposals for responding fall within the constitutional scope of the Licensing Committee and Legal Services Officer have been involved in preparing the draft response at Appendix A.

4.6 Risk Management

- 4.6.1 Any risks to the council as proposed in the consultation paper have been highlighted in the draft response at Appendix A.

5 Conclusions

- 5.1 The draft response from Leeds City Council is attached at Appendix A for any final comments by Members before agreeing a final version.

6 Recommendations

- 6.1 That Members approve or amend the draft response at Appendix A, agreeing a final version to return to the Law Commission before their deadline of 10 September 2012.

7 Background documents

- 7.1 Law Commission Consultation Paper 203: “Reforming the Law of Taxi and Private Hire Services” – <http://www.lawcom.gov.uk> (see A-Z of projects >Taxi and Private Hire Services), which includes the summary at 7.1.

LIST OF PROVISIONAL PROPOSALS AND QUESTIONS

OVERVIEW OF PROVISIONAL REFORM PROPOSALS

Provisional proposal 1

Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares. (Page 160)

Leeds is a large licensing district with in excess of 500 hackney carriages and 3500 private hire vehicles. The city centre (both in terms of the transport hubs and the night time economy) act as 'honey pots' for the hackney carriage trade. A move to a one tier system would have significant effects as all those allowed to ply for hire would be drawn to the centre. This would have a negative effect on our transport infrastructure as well as reducing the provisions available in the district towns and villages and the suburbs, That would also affect the supply of suitable vehicles for certain disadvantaged groups such as those with disabilities and those with low income (who are proportionately higher users of private hire vehicles) and for contracted work for schools and social services.

Accommodating a one tier system in Leeds would require the introduction of zoning and potentially a range of other control measures to attempt to mitigate the problems.

In Leeds we have already seen the impact that greater numbers of hackney carriage vehicles in the city centre can bring following the switch of contracts at the Leeds Bradford International Airport from hackney carriage to private hire provision. The subsequent influx of hackney carriage vehicles into the city centre caused significant traffic problems including congestion and delays to public transport.

In common with many cities there is significant pressure on kerb space within Leeds city centre and the designated public transport box has very little scope to increase ranking facilities. It is imperative that the transport box flows freely and allows scheduled bus services to operate to prescribed timetables. An increase in permitted vehicles into the transport box would severely disrupt public transport services. Therefore the careful regulation and management of taxi provision is an important consideration for the wide operation of the transport system. Decisions on taxi management and regulation therefore have a direct impact on other transport services available to the public, especially access and reliability of bus services.

The volume of hackney carriage traffic also has significant bearing on their use of bus lanes in the city which is now being rolled out. Any significant changes to the numbers of vehicles affects the Council's ability to manage these lanes to be benefit of bus users and passengers which makes the ability to manage numbers an important control in the effective management of road capacity.

The congestion and environmental problems and the impact on consumer choice and affordability would outweigh any advantages that a one tier system might be perceived as bringing.

REFORM OF DEFINITIONS AND SCOPE

Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform. *(Page 162)*

In principle Leeds City Council agrees with this proposal but would not want to see national policy and guidance decisions led by London specific issues.

Provisional proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver. *(Page 164)*

Leeds City Council strongly believes that all types of vehicle should be covered by revised Licensing legislation. Any exclusions should be clear on the face of the legislation and expressed in modern and unequivocal language. Different types of vehicles could be accommodated by differing minimum national standards.

Question 4

Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence? *(Page 164)*

It is felt that the activity is the determining feature; e.g. carrying passengers and not how they are carried. Even 'vehicles' that do not require a DVLA licence have usually to interact with the transport network and the importance of driver/rider behaviour and skill should not be set aside in this way.

Leeds City Council believed all of the types picked up in the response to provisional proposal 3 adequately rule out this approach.

Provisional proposal 5

Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers. *(Page 165)*

There should be a clear distinction between a public service vehicle, a hackney carriage vehicle and private hire vehicle with clear national minimum standards.

Provisional proposal 6

References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis. *(Page 166)*

Leeds City Council supports this proposal. Where new innovation is judged against such archaic language the result is that innovation can either be stifled or deemed to be outside it so that provision is uncontrolled and unmanaged as has been the case outside and within London with pedicab type vehicles. All exclusions should be clear, unequivocal and expressed in modern terminology.

Provisional proposal 7

The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency. *(Page 167)*

In Leeds City Council's experience, the existing framework and working practices have proven to be extremely difficult to work with. Leeds has in place proportionate safety checks for hackney carriage and private hire drivers and vehicles, but it is clear that the Traffic Commissioners are facing resourcing difficulties which makes it extremely difficult for them to commit to enforcements in this area. It is the case that a group of 12 year old children can be driven around in such a vehicle, unaccompanied by an adult by a driver who has not undergone a CRB check.

Leeds City Council recommends that locally booked stretched limousines, drivers and operators fall within the control of the local Authority within a distinct category. It is the Local Authorities who have the expertise in this area of public transport and the will and resources to carry out the responsibilities.

Provisional proposal 8

The concept of "in the course of a business of carrying passengers" should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service. *(Page 168)*

Leeds City Council feels that a distinction of "service volunteer" would be more easily understood than a definition of "ancillary services." In all respects clear guidance and distinction between all vehicle types would be required.

Question 9

How, if at all, should the regulation of taxis and private hire deal with:

(a) carpooling; and

(b) members clubs? *(Page 170)*

Leeds City Council believes that both types of vehicle should be excluded unless they are operating for gain or reward.

Provisional proposal 10

The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes. *(Page 171)*

Leeds City Council agrees with this proposal provided that there is full and timely consultation.

Provisional proposal 11

Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation. *(Page 172)*

If the total sum of their work is limited to that distinct event and time scaled not to skip into what is essentially a transport service during the hours after the event then Leeds City Council would be satisfied it remained as is.

But to remove all doubt it could very easily be accommodated within a simplified licensing category with proportionate conditions made for the category.

Leeds City Council thinks this needs some simple clarity about the limitations. Then it is either 'in' or 'out' of a licensing framework.

Question 12

Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers' exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse?

(Page 174)

Leeds City Council believes that the contract exemption should not be reintroduced, although we accept that the current situation is far from ideal. A new and much clearer Licensing framework should eliminate the need for any contract exemptions.

Provisional proposal 13

Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to “streets”. *(Page 175)*

Leeds City Council believes that it is not the “streets” that is important in these circumstances, but the definition of the type of vehicle and how it should be hailed/booked is the primary concern.

Question 14

Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank? *(Page 177)*

Yes, Leeds City Council believes there is a case for special provision in order to maximise competition and consumer choice.

Provisional proposal 15

The defining feature of taxis, the concept of “plying for hire”, should be placed on a statutory footing and include:

- (a) references to ranking and hailing;
- (b) a non-exhaustive list of factors indicating plying for hire; and
- (c) appropriate accommodation of the legitimate activities of private hire vehicles. *(Page 181)*

Leeds City Council agrees with this proposal. However we note that many of the difficulties have arisen over time and therefore any list of factors should be reviewed regularly and perhaps with the ability to change the list through delegated powers.

Provisional proposal 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services. *(Page 181)*

Leeds City Council agrees with this proposal although believes that technological means should only be used to facilitate pre booking.

Question 17

Would there be advantages to adopting the Scottish approach to defining taxis in respect of “arrangements made in a public place” instead of “plying for hire”?
(Page 182)

The distinctions between public hire and private hire should remain based on the hail and rank principle in a two tier system. It is whether the journey is pre-booked that matters not where the arrangement is made that should matter.

Leeds City Council opposes this.

Provisional proposal 18

The concept of compellability, which applies exclusively to taxis, should be retained. (Page 182)

Leeds City Council wholly supports this view.

Provisional proposal 19

Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked. (Page 183)

Wholly supported by Leeds City Council.

Provisional proposal 20

Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved.
(Page 184)

Leeds City Council disagrees with this proposal. Licensed vehicles should only be driven by a licensed driver whatever the circumstances as public safety clearly out-weighs family convenience. It is important that drivers of licensed vehicles and other drivers are clearly differentiated and it would prove difficult to enforce if private drivers are found driving licensed vehicles. We already have examples of licensed drivers claiming the journeys are for families or friends when enforcing plying for hire allegations. This would be compounded if the drivers were family members as we would have to prove that the journey was not for leisure or none professional use.

Provisional proposal 21

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements.
(Page 185)

Leeds City Council agrees with this proposal.

Provisional proposal 22

Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned.
(Page 185)

Leeds City Council also considers that the term ‘Private Hire’ is a difficult concept for the public and wonder nationally if there would be an easier recognition of the term ‘mini-cab’.

This could be a distinct benefit to the trade.

Leeds City Council agrees with this proposal.

Question 23

Should private hire vehicles be able to use terms such as “taxi” or “cab” in advertising provided they are only used in combination with terms like “pre-booked” and did not otherwise lead to customer confusion? (Page 186)

There should be a clear distinction between the services at all times and a re-branding might help.

There should be no reference at all to the term ‘taxi’ when the main business is private hire.

Again a more recognisable name distinguishing between taxi and private hire might have business advantages for both sides of the market.

A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

Taxi and private hire services should each be subject to national safety requirements. *(Page 188)*

Leeds City Council agrees that national minimum standards for drivers and vehicles should be established.

However, Leeds City Council disagrees that National standards should be maximum for private hire vehicles and not allow for any extra local conditions to be added which are specific concerns for that Licensing Authority. We strongly believe that the standard conditions in Leeds are good and would not want to lose these conditions as they may compromise public safety.

Provisional proposal 25

National safety standards, as applied to taxi services, should only be minimum standards. *(Page 189)*

The proposal explained at 15.10 is accepted.

Provisional proposal 26

National safety standards, as applied to private hire services, should be mandatory standards. *(Page 189)*

Leeds City Council would strongly oppose the removal of the authority of the Council's Elected members to impose those additional conditions benefiting the safety and quality of service and the expectations of the citizens of Leeds.

Provisional proposal 27

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer apply to private hire drivers. *(Page 190)*

We feel that significantly undermines areas of service and safety which might be different between Local Authorities. As one of the largest licensing authorities in the UK we face many challenges in a multicultural society that require very specific assessment and training needs. We strongly believe there is significant value in following the standards set in Leeds which we would not want to lose.

Leeds City Council does not accept this proposal and is strongly opposed to it.

Question 28

Should local standard-setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable? *(Page 190)*

Leeds City Council considers it is essential to maintain clear vehicle signage in order for the public to distinguish licensed from unlicensed vehicles. Leeds City Council are also strongly in favour of retaining other local conditions which are shown to maximise public safety. Many conditions also encourage good customer care and the supply of vehicles suitable for a diverse range of passenger needs and should be retained.

Question 29

What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles? *(Page 191)*

The major difficulty will be in setting a standard which is appropriate and not at the lowest common denominator. Leeds City Council therefore agrees in principle with National minimum safety standards, although wishes to retain the ability to enhance these standards above the minimum should the Licensing Authority deem that appropriate in response to local needs.

Question 30

Should national conditions in respect of driver safety be different for taxi services compared with private hire services? *(Page 192)*

Leeds City Council believes that safety standards for drivers of Hackney Carriage and Private Hire vehicles should be the same.

Provisional proposal 31

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should *only* cover conditions relating to safety. *(Page 192)*

Vehicle Standards should not be limited to mechanical safety issues only. An example of this is signage on vehicles licensed in Leeds which are a clear safety feature to enhance public safety so the public know they are travelling in a licensed vehicle. Other types of conditions which could be set include equality act conditions and customer care conditions such as vehicle age, inspection intervals or for the safe carriage of luggage.

Provisional proposal 32

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement. *(Page 193)*

Leeds City Council agrees that changes to standards should require a full 12 week consultation exercise. A technical advisory panel including trade, vehicle manufacturer and licensing authority vehicle examiners should be used to inform draft conditions prior to consultation.

Question 33

What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel? *(Page 193)*

Please see answer to Provisional Proposal 32.

Provisional proposal 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards. *(Page 193)*

There is not a one size fits all and Local Authorities must be allowed to continue to make considered and proportionate conditions to suit the citizens of their areas.

The needs of one area might be over taken by the wider needs of other areas; for example, the training requirement Leeds City Council places on the drivers of wheelchair accessible vehicles and the disability awareness training they conduct across the whole licensing field might be considered to be onerous and unnecessary in small licensing areas.

LCC strongly agrees with this approach

Question 35

Should there be statutory limits to licensing authorities' ability to set local taxi standards? *(Page 194)*

Leeds City Council agrees with proposals to set minimum National standards but does not agree with imposing any restrictions on Authorities to set additional standards in response to local needs. Councils are already sufficiently constrained by the need to act reasonably and proportionately.

Question 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators? *(Page 194)*

Leeds City Council has made it quite plain in its previous answers to similarly phrased questions that not only is it desirable but it is also necessary that Local Authorities have the authority and scope to meet the Licensing needs of their districts.

This Authority would consider it inappropriate to remove the powers under the existing legislation and regard it as a significant backwards step in de-professionalising the industry.

Question 37

Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements? *(Page 195)*

The West Yorkshire Authorities have recently undertaken a significant piece of work to consider the administrative and financial benefits of centralising decision making. The cost benefits could not be proved. Centralisation of decision making and the removal of Elected Members of each Authority to influence decisions to benefit their electorate in terms of conditions and standards significantly undermined any benefits. The whole notion flies in the face of localism. Taking decision making away from the local communities who are most affected is not a proposition Leeds City Council would sign up to.

This Authority however, recognises that there should be improved working relationships between the local authorities and the impetus to achieve that cannot rely on goodwill alone.

Provisional proposal 38

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting. *(Page 196)*

Leeds City Council believes an Authority should be able to do this if this is appropriate for local needs.

Provisional proposal 39

Licensing authorities should have the option to create, or remove, taxi zones within their area. *(Page 196)*

In a market such as Leeds where Proprietor's licences are regulated in number, there is no need for taxi zones. Should there be national legislation to remove the ability to restrict numbers this authority would in all probability need to be able to impose taxi zones in an attempt to place some control measures on the consequences of a de-restricted market. Please see the answer to question 1 for more detail.

Question 40

Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority? *(Page 197)*

Leeds City Council believes it would be useful in certain circumstances for Authorities to have this option, in addition to zoning powers, dependent on local issues.

Provisional proposal 41

Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority. *(Page 198)*

Leeds City Council objects to this proposal as it pre-supposes that there will be a National standard without any option for an Authority to add any local standards it requires. If powers to retain local standards were permitted the effect of this would be to encourage operators to apply in the area with lowest costs and lowest requirement. This would be of great concern to Leeds City Council if it was introduced. Please also see our comments on enforcement issues and funding which additionally highlight issues with the removal of local licensing requirements.

Provisional proposal 42

We do not propose to introduce a "return to area" requirement in respect of out-of-area drop offs. *(Page 199)*

The requirement to 'immediately return' could be replaced with a requirement to return 'within a reasonable time'. Private Hire vehicles should not be encouraged to wait for long periods in public places where they might be deemed to be plying for hire. The distance of the journey is not the issue, it is priced accordingly. It is already the case that an Operator can arrange return journeys with different clients (for example airport drop offs and collections).

Provisional proposal 43

Licensing authorities should retain the ability to regulate maximum taxi fares.

Licensing authorities should not have the power to regulate private hire fares.

(Page 200)

Where a market is regulated the local authority should retain the power to regulate maximum taxi fares.

It would be too easy for a relatively small number of Hackney carriages to operate a cartel and set fares at a much higher level. If the market was de-restricted there could then be more of an opportunity for competitiveness among fares but where there is very limited access to a service for example, at a railway station, hospital or late at night it would be too easy for Hackney carriage Proprietors to set a fare too high when there is little option for the travelling public to obtain another service.

In respect of Private Hire fares this Authority believes that it is in the best interests to allow Private Hire companies to set their own fares as there are strong competitive features within the city that indicate this is good practice for the consumer.

Question 44

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? *(Page 200)*

The proposal does not adequately cover the points raised in 15.56 to 15.59. The current statutory procedure for the setting of Hackney carriage fares is considered adequate and takes into account whether a journey is pre-booked or flagged down on the street. It is felt that it would be confusing and potentially unfair on the consumer to have varying arrangements within the taxi tariff. The vehicle is either a taxi operating within a structured fare regime or it is a Private Hire vehicle and this Authority feels there is little benefit to the consumer but there is potentially increased difficulty and misunderstanding with this proposal.

Leeds City Council does not agree with this proposal.

REFORM OF DRIVER, VEHICLE AND OPERATOR LICENSING

Question 45

Should national driver safety standards such as the requirement to be a “fit and proper person” be either:

- (a) set out in primary legislation; or
- (b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? *(Page 203)*

The proposals here have appeared in different ways in the previous questions and the view of Leeds City Council is that it would welcome minimum standards set at a level that brought up the professional standards in some other local authorities. But to try and define a ‘fit and proper’ person so tightly might remove discretion for local decision makers.

In general terms, the understanding of a ‘fit and proper’ person and the various pieces of case law need to concentrate on the issues of today in respect of passenger safety and standards. Any definition needs to take account all of the potential issues including people trafficking, sexual exploitation, drug crime and organised crime.

Leeds City Council feels that it would be too constrained in its decision making in some instances and in others would be unable to offer flexibility in decision making because of the statutory constraints. There should be strong guidelines which emphasise and accept they cannot accommodate the whole range of criminal activity or public safety concerns so definitively and therefore allow scope for decision makers.

Provisional proposal 46

Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself. *(Page 204)*

Any proprietor of any licensed vehicle must be a ‘fit and proper’ person to ensure that that the vehicle is maintained and controlled in a way which matches the essence of the whole of the statutory framework of licensing drivers, vehicles and Operators.

The Council can not place a requirement on a vehicle proprietor to keep records of whom he has allowed to use the vehicle at any time. An enforcement Officer has no power to require a proprietor of a licensed vehicle to answer any questions during an investigation. An unlicensed proprietor is under no obligation to assist a local authority about who has possession of a licensed vehicle or where it might be at any given time.

This is a significant gap in the existing legislation and must be taken up in the scope of any licensing reform. There is a risk that proprietors of licensed vehicles may have significant connections to the criminal fraternity or who may have significant criminal convictions themselves. It is in their best interests to have uncontrolled access to licensed vehicles. It has to be understood that a licensed vehicle sets an impression that it is going about a lawful enterprise and this is a perfect cover for people involved in criminal activity.

Leeds City Council strongly objects to the proposal.

Question 47

Should national vehicle safety standards be either:

- (a) set out in primary legislation; or
- (b) included within the Secretary of State and Welsh Ministers' general powers to set national safety conditions? *(Page 205)*

The response to this question has been touched upon many times in previous responses.

If there is to be primary legislation in needs to be set at a level that does not lower the standards attained by some local authorities. The bar must be set at a higher level so that the travelling public throughout the country know there is a higher level of conformity and safety and comfort within vehicles at a national level.

Leeds City Council would oppose any measures that would undermine the conditions that they have in place to achieve a high standard of licensed vehicles for the citizens of Leeds.

Provisional proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles. *(Page 206)*

The opportunities are there for any individual to become a sole operator of a licensed vehicle, but to do away with Operator licensing would completely undermine any licensing enforcement function and the whole of the licensing regime would simply fail in the duty to safeguard the public

Leeds City Council believes that this is essential and is beyond argument.

Question 49

Should operator licensing be extended to cover taxi radio circuits and if so on what basis? *(Page 208)*

Leeds City Council believes this is necessary and sensible.

It also considers that it is insufficient to rely on the good will of all taxi associations and without doubt this should be placed on a statutory footing so that many of the requirements placed upon Private Hire Operators and individuals to co-operate with the Authority and to supply information when demanded should be exactly the same for taxi associations.

Provisional proposal 50

The definition of operators should not be extended in order to include intermediaries. *(Page 209)*

The existing legislation outside of London is sufficiently weighted to enable the Local Authority to make the operator responsible for a booking from wherever it came whether it is an individual or intermediary. The onus does rest with the operator, even if that operator was to pass it on to another operator within a licensing district so in respect of this we don't see a need for change.

Question 51

Should "fit and proper" criteria in respect of operators be retained? *(Page 209)*

This Authority feels that not only should this be retained but there should be a change to the Criminal Record Bureau disclosures to enable the 'fit and proper' person test to be extended to enhanced disclosure.

This Authority also believes that those people employed by an Operator in the role of 'Office manager' should similarly fall within the CRB process.

This could include certificates of professional competency for Private Hire operators.

Provisional proposal 52

Operators should be expressly permitted to sub-contract services. *(Page 210)*

Leeds City Council's view is that you either have local licensing or you have national licensing. This Authority believes that it is best served by local licensing and on that basis it would not agree with this proposal.

Question 53

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply? *(Page 210)*

Leeds City Council strongly believes that records should be kept of pre bookings for both Hackney Carriage and Private Hire vehicles. This aids enforcement and for drivers and proprietors and operators in dealing with public complaints.

REFORMING QUANTITY CONTROLS

Provisional proposal 54

Licensing authorities should no longer have the power to restrict taxi numbers.
(Page 213)

Experience shows that various Authorities have de-restricted and then had to re-restrict to deal with the problems caused by the influx by of additional taxis. The problems of congestion, road blockage are not minor issues. Traffic control in Leeds already struggle with preventing blockages to the transport infrastructure and to consider the consequences of double the number of taxis coming into Leeds at different times of the day and night makes the whole proposition unworkable.

The market is not always self levelling in respect of all aspects. It might create a more ready access to taxis at certain times but that does not necessarily contribute to the existing legal understanding of what an unmet demand is and so it is unreasonable in the view of the Authority to simply open the floodgates simply because there is an aversion to this form of regulation.

De-regulation may work well for some small authorities but work less well for larger authorities.

In addition to the congestion problems the environmental issues in Leeds city centre would be significant. Please see the answer to question 1 for more detail.

Leeds City Council strongly opposes this proposal.

The power to restrict numbers should be maintained and should no longer rely on the concept of unmet demand given the importance of congestion and environmental impact and the impact on availability and choice in a de-restriction scenario.

Question 55

What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers? (Page 213)

In Leeds, the Hackney Carriage trade lost the Airport contract and as a consequence we saw evidence of extreme congestion, loss of effective controls in the transport infrastructure, significant inconvenience to other road users, insufficient rank space, difficulties in enforcing the competitive issues that would arise between drivers, the environmental impact, and no consumer benefits.

If ability to restrict the numbers was lost these problems would be repeated and exacerbated. There are similar issues associated with the use of bus lanes.

There is significant pressure on kerb space within the city centre for bus stops and loading facilities, and there is very little scope to increase ranking facilities. It is imperative that the transport box flows freely and allows scheduled bus services to

operate to prescribed timetables. An increase in permitted vehicles into the transport box would severely disrupt public transport services.

More widely the authority has identified the potential benefits from allowing the wider use of bus lanes by Hackney Carriages. This was a finely balance decision based on the benefits to taxis users when set against any disadvantage to the bus services and cycles currently permitted. The fact that this was a regulated and managed service allowed this positive step to be taken with the certainty that the City Council would be able to continue to guarantee service standards for bus services and their passengers. Without this certainty such a policy would not be viable as the large benefits to the nearly 80m per annum bus journeys in the city could not have been secured.

Question 56

Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed?

(Page 215)

Leeds City Council objects strongly to the removal of quantity restrictions but believes that if there is a decision to move to unrestricted numbers, then this needs to be done in a controlled and phased manner.

TAXI AND PRIVATE HIRE REFORM AND EQUALITY

Question 57

Should there be a separate licence category for wheelchair accessible vehicles?

This could involve:

- (1) a duty on the licensee to give priority to disabled passengers; and
- (2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles. *(Page 217)*

Part 1 is already accommodated within equality legislation and this Authority has introduced a policy whereby over 50% of its vehicles are wheelchair accessible.

Part 2 – All of the ranks in Leeds City Centre cater for the Wheelchair accessible vehicles.

It is the experience of this local Authority that the biggest problem for wheelchair users is attracting a Hackney carriage to the suburbs to be collected and then taken on what might be a relatively short journey. A Hackney Carriage driver would rightfully argue that a journey from the city centre to the suburbs for a short journey does not cover their costs and there has to be some sympathy with that.

Perhaps a way of dealing with this issue would be to tackle it from an entirely different perspective and introduce legislation that requires Private Hire operators to have a percentage for their fleet at all times that have wheelchair accessibility. This would be a

highly contentious move but already some local Private Hire operators recognise the value in having wheelchair accessible vehicles in their fleet.

We do think it is unreasonable for the Hackney Carriage trade to be solely responsible for accommodating wheelchair users and it is impractical at a local level to place that requirement on local Authorities in their decision making and would be very challengeable.

Central government shies away from numbers in relation to Hackney Carriage wheelchair accessible numbers but could issue best practice guidance in relation to licensing Private Hire Operators and the requirement to have WAV's.

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? *(Page 217)*

This Authority sets a standard fee. An accessible vehicle for one person is often not suitable for another. The only clear distinction is for wheelchair accessible vehicles. If there was to be a difference in fees there the savings would be marginal for the Proprietors of wheelchair accessible vehicles and have to be offset against those who have saloon vehicles. So while the principle sounds good the maths mean that someone else has to pay and the benefits of a slightly reduced fee might not be attractive enough to encourage other proprietors to have wheelchair accessible vehicles.

Question 59

Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers? *(Page 217)*

Earlier on it was suggested that private hire operators could contribute on a more significant basis to easing this problem but we would repeat that this would be a contentious proposal that would in all probability be strongly contested.

Leeds City Council has partnerships meetings with disability groups and they are included in the approval and decision making process. There is available best practice for all signage, ramps, handles, grips etc and the compliance levels should be set as a national mandatory level. This Authority already meets those standards,

Provisional proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles. *(Page 218)*

This is an issue that has been well debated since 1998 and it would be unfortunate if Authorities who have dealt with the issue in the same way as Leeds were now unable to maintain the benefits that come with large numbers of wheelchair accessible fleets by not having an arguable basis for it. We do understand that it would be difficult to set a quota but there should be some best practice guidance introduced that would enable effected groups to have some distinct leverage if local authorities were not committed to supplying appropriate number of wheelchair accessible vehicle.

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training. *(Page 219)*

Leeds City Council believe this is essential but within a structured and credible framework.

Provisional proposal 62

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority. *(Page 219)*

Leeds City Council agrees with this proposal

Question 63

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help? *(Page 220)*

Very difficult to manage but any changes to legislation should include control measures to deal with a range of such issues. The rules of evidence would make it difficult to prove and whilst test purchasing might contribute to the solution it would still be difficult.

This is an area of concern with wheelchair users in particular and a working solution with strong sanctions would be of significant benefit.

REFORMING ENFORCEMENT

Question 64

Should authorised licensing officers have the power to stop licensed vehicles?
(Page 222)

Leeds City Council believes this to be the case.

All of the attendant health and safety issues, education and training can follow but the authority to do so would be advantageous and reduce the reliance on the Police and make multi agency operations more viable and easier.

Question 65

What more could be done to address touting? Touting refers to the offence “in a public place, to solicit persons to hire vehicles to carry them as passengers”.
(Page 223)

Leeds City Council believes that the present legislation is sufficient. If there is an issue there needs to be a will to resolve it with national guidance to LA’s and courts to consider.

Question 66

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules? (Page 223)

Leeds City Council believes this would be desirable as generally a breach of local conditions should not trigger such an action and the judgement line should be safety or repeat offending, or non-compliance with a suspension/defect repair notice.

Question 67

Should licensing authorities make greater use of fixed penalty schemes and if so how? (Page 225)

Leeds City Council believes this would be useful but any use of a fixed penalty scheme would need to be proportionate not only to officer time involved but the level of offence committed in order to act as a suitable deterrent.

Provisional proposal 68

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas. *(Page 225)*

If there is to be a standard minimum National licensing scheme portable throughout the country then national enforcement powers would be essential, we do not agree with such a scheme for the reasons outlined above.

There are significant practical and legislative obstacles around delegation of powers that would need to be overcome for such a proposal to be workable in practice.

It also needs to be recognised that busy areas will then effectively fund the enforcement activities of other Licensing Authorities. To address this the 'home' Licensing Authority may have to pay for any enforcement activity conducted by another Authority against any vehicles, drivers or operators it licences.

Question 69

Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this? *(Page 226)*

As with the previous question If there is to be a standard minimum National licensing scheme portable throughout the country then national enforcement powers would be essential, We do not agree with such a scheme for the reasons outlined above.

Again there are significant practical and legislative obstacles around delegation of powers that would need to be overcome for such a proposal to be workable in practice.

REFORM OF HEARINGS AND APPEALS**Provisional proposal 70**

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence. *(Page 230)*

Leeds City Council agrees to this proposal.

Provisional proposal 71

The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision. *(Page 231)*

This very issue went before our Licensing Committee for re-consideration recently and it was decided not to introduce this facility. The benefit to the state in terms of reduced costs in the court process are outweighed by the increased administrative costs incurred in supporting the

system.

Therefore the Council's current position is not to support this proposal.

Provisional proposal 72

Appeals should continue to be heard in the magistrates' court. *(Page 232)*

Leeds City Council agrees with this proposal although licensing expertise within the courts has been lost since the Licensing Act 2003 was implemented. Courts should be encouraged to train magistrates on licensing issues and/or create a pool of expertise in their local areas.

Question 73

Should there be an onward right of appeal to the Crown Court? *(Page 233)*

Yes, but only in respect of an error in law.

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Report of the Chief Officer, Democratic and Central Services and the City Solicitor

To: Licensing Committee

Date: 14 August 2012

Subject: Hackney Carriage and Private Hire Driver's Petition for Equal Rights and Alleged unlawful application of Immediate Suspension Powers.

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of Main Issues

- 1 Leeds City Council is in receipt of a petition from Mr Kabear Hussain of the Alpha Hire and Hackney Welfare Society which requests the Council to consider passing an 'Equality Resolution' in respect of certain licensing decisions.
- 2 This report provides information to assist Members to determine how to respond to the petition and in particular information on the provision referred to namely Section 61(2B) which allows suspension or revocation of a licence with immediate effect on public safety grounds.

Recommendations

- 3 That Members do not accept the proposal set out in the petition submitted by Mr Kabear Hussain of the Alpha Hire and Hackney Welfare Society which requests the Council to consider passing a resolution

'... that in the determination of whether to suspend or revoke the licence of a HACKNEY CARRIAGE driver under its powers in the Local Government (Miscellaneous) Provisions Act 1976, Section 61 (2B), such determination to revoke a licence with immediate effect shall only be undertaken if there has been a conviction, an ongoing police investigation, or prosecution against the driver for an indictable only offence'.

as the proposed resolution does not reflect the legal position and unduly restricts the powers of the council.

- 4 That Members direct officers to prepare draft guidelines on the use of the powers of immediate suspension for consideration by the Licensing Committee at its October meeting prior to trade consultation.

1. Purpose of this Report

- 1.1 This report informs Members of a petition received from Mr Kabear Hussain of the Alpha Hire and Hackney Welfare Society. The petition is in the form of an Alpha Radar newsletter and has been signed by 255 individuals. Separate copies of the 255 newsletter/petitions have been sent to Leeds City Council by Mr Hussain. A copy of the covering letter is attached for Members information at appendix 1.

2. Background Information

- 2.1 Members will note that the petition requests that

‘This council resolves that in the determination of whether to suspend or revoke the licence of a HACKNEY CARRIAGE driver under its powers in the Local Government (Miscellaneous) Provisions Act 1976, Section 61 (2B), such determination to revoke a licence with immediate effect shall only be undertaken if there has been a conviction, an ongoing police investigation, or prosecution against the driver for an indictable only offence’.

- 2.2 The statutory provision giving rise to the concern of the signatories is Section 61(2B) of the Local Government (Miscellaneous) Provisions Act 1976. This provision was inserted into the legislation by the Road Traffic Act 2006 effective from 17 March 2007. That section provides that

‘ if it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver under subsection (2)(a) of this section includes a statement that that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.’

The general powers of revocation and suspension are set out in section 61 of the Act summarised below and the reference to subsection (2)(a) is to the notice that must always be given to the driver setting out the reasons for suspension.

- 2.3 Prior to this section coming into force the position was that a suspension or revocation decision did not take effect for 21 days. It could be appealed to the Magistrates Court. The effect of the appeal was to stay the decision which would not then come into effect until the appeal had been heard. Concern was expressed nationally that outside London drivers were allowed to continue working through that period even though they may pose a risk of danger to the public. Under the new provisions, where it is in the interest of public safety to do so, the suspension can take immediate effect and will remain in place until the appeal is heard. This brought the rest of the country into line with the legislation applicable in London.
- 2.4 The concern expressed in the petition is that the provision is being used incorrectly by Leeds City Council officers and that it should only be used where there has been a conviction, an ongoing police investigation or prosecution against the driver for an indictable only offence. The letter suggests that such use of powers is an abuse of

process and that drivers are suspended or have their licences revoked for petty and sometimes allegedly bogus reasons.

3. Main Issues

3.1 The legal issues

Under the Local Government (Miscellaneous Provisions) Act 1976 the suspension and revocation of drivers' licences is covered by Section 61. A council may suspend or revoke a driver's licence on the following grounds:-

- that the driver has since the grant of the licence been convicted of an offence involving dishonesty, indecency or violence or
- been convicted of an offence under or failed to comply with the provisions of the Act of 1847 or of the 1976 Act or
- for any other reasonable cause. Case Law has held that any other reasonable cause covers matters short of a conviction.

The council is required to give the driver notice of the grounds on which the licence has been suspended or revoked within 14 days and require the driver to return the badge issued to him/her.

- 3.2 The Road Safety Act 2006 amended this particular section by inserting subsection 2A which provides that the suspension or revocation normally takes effect at the end of the 21 day period in which the driver may appeal or, where an appeal is lodged, at the end of the appeal. However under a new Section 2B the suspension or revocation can take immediate effect if it appears to the council that the interests of public safety require that it does and the correct notice to the driver is given. The effect of an immediate suspension or revocation is that the driver is prevented from working until the appeal has been dealt with.
- 3.3 The petition received by the council states that the power of immediate suspension should only be used where there has been a conviction, an ongoing police investigation or prosecution against the driver for an indictable only offence (one which can only be dealt with in Crown Court). Members will note that those words do not appear in the legislation. The test expressed there is 'if it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect'. Such wording provides discretion to the council to form a view on the particular circumstances of the case as to whether the test has been met.
- 3.4 The proposed resolution does not reflect the statutory test laid out in section 61(2B). The wording of the section is that immediate suspension can be invoked if it appears that the interests of public safety require this. The proposed wording restricts the use of immediate suspension to cases following conviction for, police investigation into or prosecution for **an indictable only offence**. An indictable only offence is a very serious offence which can only be tried in the Crown Court. If the council was to adopt the wording proposed in the petition, the effect of this would be to place an additional limitation on the council's use of the power to immediately suspend or revoke a driver's licence which is not included in the Act. Section 61(B) does not restrict the use of immediate suspension to indictable only offences. To do so would exclude from consideration many offences which may raise issues of public safety sufficient to require immediate suspension. Examples of offences which are not indictable only

include drink driving, using a vehicle without a test certificate or in a dangerous condition, sexual assault, engaging in sexual activity with a child/vulnerable person, threats to kill, grievous or actual bodily harm, affray and violent disorder, harassment and other public order offences including those which are racially aggravated, most drug related offences and all taxi and private hire offences. Many of the offences in this list can be tried in the Crown but cannot only be tried there. Some offence can only be tried in the Magistrates Court.

- 3.5 There currently does not appear to be any case law in relation to the application of section 61(B). Any court considering a suspension given on an immediate basis will first look to the actual wording of the Act, but can also have regard to what Parliament intended when the section was passed. Such intention can be indicated by statements given by ministers during parliamentary debates. The most relevant statement appears to be that of the minister Dr. Ladyman in 2006 when the section was being introduced:-

'Dr. Ladyman: The hon. Gentleman has misunderstood the purpose of the new clause and I accept full responsibility for not having explained it. There will be no new powers to suspend or revoke a licence. One would still have to satisfy the grounds for a suspension or revocation of a driver's licence as under the present legislation. The difference is that at the moment if the individual whose licence is suspended appeals against that suspension, they can continue to drive people around while they await the hearing of the appeal. If someone is accused of a serious offence-as serious as rape or some other sexual offence-it would be horrendous if they were allowed to continue to drive a private hire vehicle while waiting for the appeal against suspension to be heard. Under the new clause, when the licensing authority takes the view that the offence is serious, it will be able to suspend the licence. The argument that was put to us by some taxi drivers was that it might leave them open to false allegations and they might lose their livelihood over a trivial allegation while awaiting the hearing of appeal against suspension. However, in the experience of the use of the power in London, where it has been in place for some time, it has not been abused. Drivers have had their licences suspended pending appeal only in cases in which a serious allegation has been made against them. Given the seriousness of the offences that might be involved, I think that the new clause is a proportionate response to the situation. No driver should lose their livelihood lightly even for a short time, but when someone is accused of an offence of sufficient seriousness to justify the revocation or suspension of their licence, it is appropriate that they should not continue to drive pending an appeal.' (Hansard October 2006)

- 3.6 The Minister's statement is helpful in providing the context for the introduction of the power of immediate suspension or revocation and an indication as to what Parliament intended. It makes it clear that Parliament intended the discretion to remain with the licensing authority to judge when it is appropriate to use the power having regard to the seriousness of the offence.
- 3.7 To summarise, the legal position is that any decision to suspend or revoke a driver's licence comprises two stages. Firstly, whether the grounds are made out for suspension or revocation (as set out above at para. 3.1), and secondly does it appear to the council as licensing authority that the interests of public safety require that the suspension or revocation should take immediate effect (as set out above at para. 2.2). If the grounds are made out, then the licence can be suspended or revoked, but this

would only take immediate effect if the second stage is also made out. Otherwise, this would be done on notice.

3.8 The service perspective

Members may recall that in March 2012 they received a report on decision making indicating the numbers of suspensions and revocation decisions and the reasons for them. By way of summary in 2010 there were 69 revocations and 35 suspensions and in 2011 there were 86 revocations and 129 suspensions. Member will be aware that a person can be suspended in the latter months of one year with the revocation decision being made in the following year therefore the figures for suspensions and revocations do not necessarily correlate between years. The largest single category of suspensions was for drivers suspected of plying for hire under the Plying for Hire Policy. There were 36 such suspensions in 2010 and 63 such suspensions in 2011. For the reasons explained in paragraphs 3.10 to 3.13 below such suspensions almost always take immediate effect.

3.9 In 2012 (to the date of preparing this report) 23 suspensions have been issued. The information on reason for suspension and whether it took immediate effect is given below.

Date of Suspension	Immediate effect?	Reason for Suspension
05/01/2012	Y	Plying for Hire & No Insurance
09/01/2012	Y	Plying for Hire & No Insurance
26/01/2012	Y	Pre Conviction Notification - Assault
21/02/2012	N	Criminal Offences
31/01/2012	Y	Pre Conviction Notification - Assault
02/02/2012	Y	Potential Fatal RTC
17/02/2012	Y	Convictions received Disqualified Driver
01/03/2012	Y	Disqualified 6 Months
02/03/2012	N	Disqualified 6 Months
16/03/2012	Y	Disqualified 56 days speeding
19/03/2012	N	Disqualified 6 months, totting up
18/03/2012	Y	Plying for Hire & No Insurance
30/03/2012	Y	Pre Conviction Notification - Dangerous Driving
17/04/2012	Y	Allegation of sexual assault
18/04/2012	Y	Allegation of Class A Sup
04/05/2012	N	Short driving Disqualification
26/04/2012	Y	Pre Conviction Notification - Rape
11/05/2012	Y	Complaint, Threatening, Aggressive, Behaviour Repeated
21/06/2012	N	False Dec on renewal
14/06/2012	Y	Medical condition
15/06/2012	N	Convictions received Disqualified Driver
27/06/2012	Y	Convictions received Disqualified Driver
16/08/2012	N	Convictions received Disqualified Driver

Members will note the reasons given and where immediate suspension has been invoked and will be able to consider those in the context of the statutory test of the

interests of public safety. Each case is judged on its own merits and there is no approved policy or guidelines for officers to consider when making those decisions.

- 3.10 Members will recall discussing in March 2012 the fact that drivers have been suspended on an immediate basis under the plying for hire policy. The plying for hire policy was approved by the Licensing and Regulatory Panel on 6 March 2007. The report considered by Members at that time highlighted an increase in the activity of plying for hire which had resulted in complaints from ward members and the public. Enforcement activity undertaken did not deter the drivers from this illegal activity. The report indicated that there were key dangers to the public from the activity of plying for hire which included the likely invalidation of the vehicle insurance, the lack of pre-booking significantly reducing the chance of detecting offenders or the ability of the operators to respond to complaints.
- 3.11 The report proposed that the Council adopt a policy which would enable officers to progress the decision making more quickly and without waiting for a conviction. Where a licensed driver was found to be plying for hire with evidence which would support a criminal prosecution the policy approved is that the driver will normally be suspended with immediate consideration given to the revocation of the licence. The policy goes on to say that where a licence has been revoked as a result of the process the driver would not normally be granted a further licence for one year. Where the driver is involved in a second such incident the driver would not normally have a licence granted by the Council for 3 years.
- 3.12 In approving that policy the attention of Members was drawn to the requirement for a driver to be a fit and proper person to hold a licence and that those drivers who illegally ply for hire and who were prepared to transport the public without insurance may not be fit and proper persons. The proposal was supported by the Hackney Carriage Associations, elected ward members, private hire operators and residents. The report also indicated that there was a division of opinion on the merits of the policy amongst licensed drivers. Members were also informed that the affected driver had a right of appeal direct to the Magistrates Court as well as an opportunity to challenge any policy adopted by way of judicial review.
- 3.13 The minutes of the meeting indicate that Members discussed the effects of drivers plying for hire on the city including the implication for the health and safety of passengers, the creation of illegal ranks and the problem of drivers plying for hire who illegally parked in hackney carriage ranks. They resolved that adopting the policy would be operationally and significantly beneficial to the safety of the general public.
- 3.14 The immediate suspension powers were introduced shortly thereafter. Considerations of public safety underpinned the approved policy and so when the test for immediate suspension (where it appears that the interests of public safety require this) was applied the same allegations usually resulted in the immediate suspension of the licence with the driver consequently unable to work pending his/her appeal. Specific arrangements were made by the courts to facilitate swift appeal hearings in such cases but these proved ineffective as in most cases neither the driver nor the council were able to be ready for the hearing in such short time-scales.
- 3.15 Members may also wish to note that a review of the previously approved plying for hire policy is ongoing and has been subject to public consultation. A report on the outcomes will be brought back to committee later in the year in line with previous

reports on the review of a range of taxi and private hire policies.

4. Corporate Considerations

4.1 Consultation and Engagement

4.1.1 Members will be aware that any policy change proposed in response to the petition will require stakeholder and trade consultation prior to being approved.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 The petition raises equality issues. Any guidelines or policy change proposed in response to the petition should undergo equality screening.

4.3 Council policies and City Priorities

4.3.1 There is no council policy or guidelines on immediate suspension however Members may wish to propose that guidelines be drafted or the plying for hire policy changed in considering the issues raised by the petition. The impact of any proposed change on city priorities relating to transport and crime and disorder must also be taken into account.

4.4 Resources and value for money

4.4.1 There are no resource implications arising from this report.

4.5 Legal Implications, Access to Information and Call In

4.5.1 No implications

4.6 Risk Management

4.6.1 No implications

5. Conclusions

5.1 That Members should consider the proposed resolution contained within the petition, noting that its wording does not accord with the legislation or with the statement by the Minister. If adopted without amendment it would restrict use of s61 (2B) to cases where there has been a conviction, an ongoing police investigation or prosecution against the driver for an indictable only offence rather than where it appears to the council that the interests of public safety require immediate suspension or revocation.

5.2 If Members conclude not to accept the proposed resolution, Members may wish to consider whether, as a matter of best practice, they wish to require officers to produce publically available guidelines on how or when the power should be used, having regard to the seriousness of the allegations and the risk to public safety. This would provide further transparency and confidence in the process and would assist the process in respect of appeals to the courts.

6 Recommendations

6.1

T

That Members do not accept the proposal set out in the petition submitted by Mr Kabear Hussain of the Alpha Hire and Hackney Welfare Society which requests the Council to consider passing a resolution

‘... that in the determination of whether to suspend or revoke the licence of a HACKNEY CARRIAGE driver under its powers in the Local Government (Miscellaneous) Provisions Act 1976, Section 61 (2B), such determination to revoke a licence with immediate effect shall only be undertaken if there has been a conviction, an ongoing police investigation, or prosecution against the driver for an indictable only offence’.

as the proposed resolution does not reflect the legal position and unduly restricts the powers of the council.

6.2

T

That Members direct officers to prepare draft guidelines on the use of the powers of immediate suspension for consideration by the Licensing Committee at its October meeting prior to trade consultation.

7 Background documents¹

7.1 The Plying for Hire Policy

7.2 The Report to Licensing and Regulatory Panel dated 6 March 2007 proposing the policy and the minutes of the decision thereon

7.3 The Report to Licensing Committee on Decision Making dated 13 March 2012 and the minutes of that discussion

7.4 The Local Government (Miscellaneous Provisions) Act 1976 Section 61 as amended by the Road Safety Act 2006

7.5 Records of Parliamentary Debate – Hansard 9 October 2006 Column 55 and 56 – Speech of the Minister Dr Ladyman.

¹ The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.



Alpha Hire and Hackney Welfare Society

Leeds Media Centre, 21 Savile Mount, Leeds LS7 3HZ

TELEPHONE 0113 322 79 26
MOBILE: 07 837 62 61 81
FAX 0113 308 77 33
EMAIL: alphahireandhackney@gmail.com

To: **The Chief Executive
Tom Riordan
Civic Hall
Calverley Street
Leeds LS1 1UR**

Our Ref: **AH2.786/MD/KH**

Your Ref:

Date: **1st July 2012**

WE PREFER ANY RESPONSE TO THIS
CORRESPONDENCE TO BE BY EMAIL
AND ANY ATTACHMENTS TO BE IN
PDF FORMAT

Dear Sirs

Re: **EQUALITY OF TREATMENT FOR MUSLIM PRIVATE HIRE AND
HACKNEY CARRIAGE DRIVERS
UNLAWFUL APPLICATION OF LOCAL GOVERNMENT
(MISCELLANEOUS PROVISIONS) ACT 1976 SECTION 61(2B)**

We are an organisation catering for the welfare of private hire and hackney carriage drivers and proprietors. We have had related to us a number of complaints concerning the abuse of your Council's powers of suspension and revocation of private hire and hackney carriage driving licences by your Council's offices.

Our organisation has undertaken an investigation and regrettably found an absence of any confidence in any officer from your Council's Licensing Department. Whether the lack of confidence in your Council's Licensing Department is the product of victimisation at the hands of anti-Muslim your Council's licensing officers is not for our organisation to comment on though we do warn your Council that the perception of anti-Muslim sentiments which we noted during the course of our investigation is not helpful to good community relations and adds to tensions.

Whatever maybe the ultimate reason for the lack of confidence in your Council's Licensing Department, it should not be a matter of dispute that private and hackney carriage drivers deserve to be treated according to the law and not by some imagined power, invented by your Council's Licensing Department. In the light of this we have proposed an "Equality Resolution" for your Council to adopt so that the excesses of your Council's Licensing Department's Officers may be curbed and private hire and hackney drivers have some assurance that they are not to be

*Alpha Hire & Hackney Welfare Society is the operational name of Leeds Hackney Taxis Limited
Registered Number: 07507600 Registered Office Address: 4 NICE STREET, LEEDS LS8 5BH*

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subject to the arbitrary whims of your Council's Licensing Department.

As part of our organisation's commitment to "participatory democracy" we also sought support from the trade for the adoption for the "Equality Resolution" and we most happy to present to you signed support for the adoption of the "Equality Resolution" by some two hundred and fifty private hire and hackney carriage drivers which we enclose for your kind inspection.

Our specific purpose therefore in writing to you is that we would like for you to use your good offices to relate our proposal and its support to the members of your Council's Licensing Committee and perhaps arrange a short meeting with our organisation where we may resolve matters of concern in the trades with your Council.

We are committed to having matters resolved through dialogue, though we do reserve our position on exploring other options should dialogue with your Council be unproductive.

Yours



Kabear Hussain
(Director)

Alpha Hire & Hackney Welfare Society is the operational name of Leeds Hackney Taxis Limited
Registered Number: 07507600 Registered Office Address: 4 NICE STREET, LEEDS LS8 5BH

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Report of the City Solicitor

Report to Licensing Committee

Date: 14 August 2012

Subject: Revisions to the Code of Practice for Determining Licensing Matters

<p>Electoral Wards Affected:</p> <p>NO</p>
--

<p>Specific Implications For:</p> <p>Ethnic minorities <input type="checkbox"/></p> <p>Women <input type="checkbox"/></p> <p>Disabled people <input type="checkbox"/></p>
--

Eligible for Call In NO

Does the Report contain Exempt or Confidential Information NO

Executive Summary

1.0 Purpose Of This Report

- 1.1 The report informs Members of changes made to the Code of Practice for the Determination of Licensing Matters made by the Standards and Conduct Committee following the introduction of the new standards regime on 1 July 2012. The revised code, updated to reflect the legislative changes, is appended for members' information.
- 1.2 In approving the necessary updates, the standards and conduct committee also resolved to ask the licensing committee to review the code of practice for the determination of licensing matters to ensure it is fit for purpose and report back to the next available meeting of the standards and conduct committee.

2.0 Background Information

- 2.1 The previous code of practice for the determination of licensing matters was approved by the then standards committee of the Council following consultation with the licensing committee. It substantially followed guidance previously introduced by LACORs (Local Authority Coordinators of Regulatory Services).

- 2.2 The code applied to all licensing decisions made including decisions of the licensing committee, decisions of the licensing subcommittee and any officer delegated decisions within the terms of reference of the committee. The code also applied when members were involved in the licensing process such as in meetings with the public.
- 2.3 The aim of the code of practice was to ensure that there were no grounds for suggesting that a licensing decision had been taken improperly.
- 2.4 The code dealt with members interests under the previous definitions of personal and prejudicial interests as well as dealing with issues of bias and predetermination under the law applicable at that time.

3.0 **Main Issues**

- 3.1 On 1 July 2012 the new standards regime under the Localism Act 2011 came into force. That changed the law in relation to a number of matters and required all the codes and protocols within the Council's constitution, including the code of practice for the determination of licensing matters, to be reviewed urgently. The review was carried out with the sole purpose of bringing the code of practice up to date in terms of the current legislation and a revised code was approved by the new standards and conduct committee on 20 July 2012. A copy of the new code is provided for members information at Appendix 1.
- 3.2 The code has been revised to remove any reference to personal prejudice or interest and instead reference was to disclosable pecuniary interest. The new definition of predetermination from the Localism Act 2011 has also been included in the revised code.
- 3.3 The section relating to the monitoring of the code has been revised so it is not necessary for the standards and conduct committee to receive annual reports on compliance with the codes. Instead reports will be brought to the standards and conduct committee as and when amendments are required.
- 3.4 The code of practice for the determination of licensing matters sits alongside the code of practice for the determination of planning matters, the monitoring officer protocol for member/officer relations. These documents were introduced as part of the Council's ethical framework under the previous regime. The new members code of conduct provides an opportunity to review the value of all the codes and protocols within the ethical framework and their contribution the governance and conduct arrangements of the Council. The Standards and Conduct Committee have asked the Licensing Committee to further review the code in this manner
- 3.5 In their review of the code, members may consider whether this code should be retained as part of the Council's conduct framework and in particular whether the code has value in regulating the committees decision

making process, the extent to which it duplicates rather than being an addition to the members code of conduct, the extent to which the code applies to officers as well as members and how any breaches should be enforced.

4.0 Corporate Considerations

4.1 Consultation and Engagement

This report seeks the views of licensing committee in relation to further proposed changes to the code of practice. No further consultation is required with the trade or the public.

4.2 Quality and Diversity

There are no issues for equality and diversity or cohesion and integration.

4.3 Council Policies

Reviewing the code supports principal 3 of the Council's code of corporate governance in relating to good conduct and behaviour.

4.4 There are no Resource implications relating to this report.

4.5 As the standards of conduct committee have already approved a revised code to reflect the legislative changes there are no legal implications to this report.

4.6 Risk Management

There are no risk management issues in relation to this report.

5.0 Conclusions

5.1 That members should note and familiarise themselves with the revised code which now reflects the current legislation relating to governance and conduct.

5.2 That members should review the existing code of practice and should indicate whether further amendments are considered necessary and desirable to ensure that the documents meets its objective of a system with the decision making process.

6.0 Recommendations

6.1 The Licensing Committee is asked to note the revised code of practice for the determination of licensing matters which is now in force.

6.2 The Licensing Committee are asked to consider whether further amendments are required and if so, to direct officers to draft further

amendments for the consideration by Licensing Committee at the September meeting. Any amendments proposed then be considered by the standards and conduct committee at their meeting in October.

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CODE OF PRACTICE FOR DETERMINING LICENSING MATTERS

Body/Person with authority to
change the document

Standards and Conduct Committee

CODE OF PRACTICE FOR THE DETERMINATION OF LICENSING MATTERS

1.0 INTRODUCTION

1.1 **This code applies** to all licensing decisions including:

- Decisions of the Licensing Committee.
- Decisions of any Licensing Sub Committee.
- Delegated decisions within the terms of reference of the above bodies.

All decisions made by the above bodies will be referred to within this code as decisions of the licensing authority.

1.2 This code also applies at all times when Members are involved in the licensing process. This includes taking part in decision making meetings of the Council in exercising the functions of the licensing authority and on less formal occasions such as meetings with officers or the public and consultative meetings. It applies as equally to licensing enforcement matters, reviews, or site specific issues as it does to licensing applications.

1.3 This code of practice applies as follows:

- Sections 1-3 apply to all Members.
- Sections 4-12 apply particularly to Members of the Licensing Committee.
- Sections 13-14 apply to officers.
- Sections 15-17 deal with procedures, monitoring and review.

1.4 **The aim of this code** of good practice is to ensure that in the licensing process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

1.5 **If you have any doubts** about the application of this Code, you should seek early advice, preferably well before any meeting takes place from the Monitoring Officer.

2.0 RELATIONSHIP WITH THE MEMBERS' CODE OF CONDUCT

2.1 Leeds City Council's Members' Code of Conduct must be complied with throughout the decision making process.

2.1.1 **Do** apply the rules in the Members' Code of Conduct first and at all times.

2.1.2 **Do** then apply the rules of this Code which seek to explain and supplement the Members' Code of Conduct for the purposes of licensing. If you do not abide by this Code you may put:

- the Council at risk of proceedings on the legality or maladministration of the related decision; and
- yourself at risk of a complaint being made to the Standards and Conduct Committee regarding your conduct.

3.0 LICENSING APPLICATIONS AND DISCLOSABLE PECUNIARY INTERESTS

- 3.1 It is your responsibility to declare any disclosable pecuniary interests you have in a matter at any relevant meeting. You should also withdraw from the room or chamber where the meeting is being held.
- 3.2 **Do not** participate or give the appearance of trying to participate in any part of the meeting which involves the matter in which you have a disclosable pecuniary interest. You may however make representations, answer questions on a matter or give evidence on a matter if the public also have the right to do so¹. This means that:
- You only have the same right as the public to make representations.
 - You will be brought into the meeting when the other parties are called in.
 - You will be subject to the same time limits as all other parties and have the same rights i.e. to make representations, give evidence and answer questions but not to cross examine other parties.
 - Once you have finished, or the meeting decides you have finished, you must leave the room immediately after making your representations, answering questions or giving evidence and must take no part in the decision making.
 - If the public have no right to make representations, answer questions on a matter or give evidence on a matter, then you must withdraw from the meeting room when the matter in which you have a disclosable pecuniary interest is discussed.
- 3.3 Where you have a disclosable pecuniary interest in a matter to be determined by a Licensing Sub Committee you should ensure that you have arranged for a substitute to attend the hearing in your place.
- 3.4 **Do not** get involved in the processing of the application.
- 3.5 **Do not** seek or accept any preferential treatment or place yourself in a position that could lead the public to think you are receiving preferential treatment because of your position as a Councillor.
- 3.6 **Do** be aware that, whilst you are not prevented from seeking to explain or justify a proposal in which you have a disclosable pecuniary interest to an appropriate officer, the Code places greater limitations on you than would apply to an ordinary member of the public and sensible steps must be taken to ensure openness and fairness in the decision making process. In particular you should:
- Notify the Monitoring Officer in writing of your own application (or that of a relative or employer where known) or where you are employed as an agent.
 - Consider whether it is advisable to employ an agent to act on your behalf in dealing with officers and any public speaking at a licensing hearing.

¹ Paragraph 18 of Leeds City Council Members' Code of Conduct.

4.0 BIAS AND PREDETERMINATION IN THE LICENSING PROCESS

- 4.1 Section 25(2) of the Localism Act 2011 sets out that a decision maker is not to be taken to have had, or to have appeared to have had, a closed mind when making a decision just because –
- (a) the decision maker had previously done anything that directly or indirectly indicated what view the decision maker took, or would or might take in relation to a matter, and
 - (b) the matter was relevant to the decision.
- 4.2 The above section was enacted to clarify that predetermination occurs where someone has a closed mind, with the effect that they are unable to apply their judgement fully and properly to an issue requiring a decision. The section makes it clear that if a councillor has given a view on an issue, this does not show that the councillor has a closed mind on that issue, so that if a councillor has campaigned on an issue or made public statements about their approach to an item of council business, he or she will be able to participate in discussion of that issue in the council and to vote on it if it arises in an item of council business requiring a decision.
- 4.3 Having said this, the words ‘just because’ in Section 25 suggest that other factors when combined with statements made etc. can still give rise to accusations of predetermination so care still needs to be taken.
- 4.4 Given the requirement that Members of the Licensing Committee or Sub Committee should exercise an independent mind and decide proposals in accordance with the relevant licensing considerations, Members must not favour any person, company, group or locality or commit themselves to a particular point of view on a licensing application prior to its full consideration at the Licensing Committee or Sub Committee.
- 4.5 **Do not** make up your mind or give the impression of making up your mind (particularly in relation to an external interest or lobby group) prior to the decision making meeting and of your hearing the officer’s presentation and the evidence and arguments on both sides.
- 4.6 **Do** be aware that you are likely to be biased or pre-determined where the Council is the landowner or applicant **if** you have been or are perceived as being, a chief advocate for the proposal. This will not necessarily arise from being a member of the proposing board or the Executive but through a significant personal involvement in preparing or advocating the proposal by which you may be perceived as being unable to act impartially or determine the proposal purely on its licensing merits and in the public interest.
- 4.7 **Do remember** that you are, of course, free to listen to a point of view about a licensing proposal, give procedural advice and agree to forward any comments, but should then refer the person to the appropriate licensing officer.
- 4.8 **Do not** use any political group meetings prior to the Licensing Committee or Sub Committee meeting to determine how you or other Councillors should vote. There

is no objection to a political group having a predisposition, short of predetermination, for a particular outcome or for you to begin to form a view as more information and opinions become available, but decisions can only be taken after full consideration of the Licensing Officer's report and documents and information considered at the Hearing.

5.0 MEMBERSHIP OF PARISH COUNCILS AND OUTSIDE BODIES

5.1 This section concerns the position of Members of Leeds City Council who are also Parish Councillors or members of an outside body.

5.2 **Do** consider yourself able to take part in a licensing debate and vote on a proposal at a meeting of the Parish Council or outside body is a consultee provided:

- You make it clear that that you are keeping an open mind and may vote differently at the licensing hearing when full details are available.
- You do not commit yourself so far to a particular point of view that you cannot be considered as open to persuasion at a licensing hearing when the proposal is decided.

6.0 AREA COMMITTEES

6.1 As all Leeds City Councillors are members of an Area Committee, this code recognises the "Dual Hatted" roles which members of the Licensing Committee and Area Committees must consider. There is a possibility that you may be considered as predetermining a matter if you have spoken in support or against it or are closely associated with such a decision taken at the Area Committee.

6.2 **Do** consider whether it is appropriate for you to speak at the Area Committee if you wish to speak also on the application at a licensing hearing.

6.3 **Do** consider, whatever your own views, whether as Chair of the Area Committee or a member of any Panel, Committee or Sub Committee, you would be so closely associated with that decision that it would be unreasonable to expect you to disregard it.

6.4 **Do** remember that you can speak and vote on an application which is before the Area Committee for consultation so long as you make it clear that you have only formed a provisional view and will still approach the issue with an open mind and be open to persuasion when the matter is discussed at the licensing hearing.

6.5 **Do** remember that it is not always sufficient to make such a statement if it is not demonstrably genuine. The more controversial the application and or the more vehemently you have supported or opposed it, the more difficult it will be to show that you have not predetermined the matter and therefore render the decision susceptible to challenge. In those circumstances you should not attend the hearing for that application.

7.0 SPOUSE/PARTNER COUNCILLORS

- 7.1 There may be occasions when the spouse or partner of a Member, usually a member for the same Ward, is also a Member of the Licensing Committee or Sub Committee. That Member might quite properly refer constituents who wish to make representations to his or her spouse or partner rather than be directly lobbied. Generally the fact that the spouse or partner Councillor has been approached will not affect your ability to speak and vote at a licensing hearing.
- 7.2 **Be** aware that Section 30(3) of the Localism Act 2011 defines that a Member has a disclosable pecuniary interest in any matter, if it is the Members' own interest, or if it is an interest of their spouse or partner, a person with whom the Member is living as husband and wife, or a person with whom the Member is living as if they were civil partners, and the Member is aware that that other person has the interest.
- 7.3 **Consider** if your spouse or partner is so closely involved with the support for, or opposition to, an application that a member of the public might reasonably think that the involvement is such that you must be biased or have predetermined the application.

8.0 EXECUTIVE BOARD MEMBERS

- 8.1 There is no Constitutional or legal reason why an Executive Board Member should not also be a Member of the Licensing Committee and take part in the decision making processes which are not part of the executive function.
- 8.2 **Be** aware that you should not speak or vote on any matter which you have discussed at Executive Board unless you have demonstrated there and can do so at the licensing hearing that you have not predetermined the application.
- 8.3 **Do not** take part in any meeting of the Licensing Committee or Sub Committee on a matter in which you may have been seen as advocating a proposal as an Executive or Deputy Executive Member.

9.0 CONTACT WITH APPLICANTS AND OBJECTORS

- 9.1 In order to maintain impartiality, it is preferable that Members are not involved in pre-application discussions but there will be occasions when this can be unavoidable. The following guidance is given.
- **Do not** agree to any formal meeting with applicants, or groups of objectors where you can avoid it. Where you feel that a formal meeting would be helpful in clarifying the issues, you should not arrange it yourself, but request the Licensing Officer to do so. The officer will then ensure that those present are aware that any discussion will not bind the Council and maintain a written file record of the meeting.
 - **Do** refer those who approach you for advice to officers.
 - **Do** follow the rules on lobbying.

- **Do** report any significant contact with the applicant or other parties to the Monitoring Officer explaining the nature and purpose of the contacts and your involvement and ensure that this is recorded on the licensing file.
- **Do not** attend a presentation by an applicant unless an officer is present and/or it has been arranged by an officer.
- **Do** ask relevant questions for the purpose of clarifying your understanding of the proposals but do not express any strong view or state how you or other members might vote.
- **Do** make it clear that the presentation is not part of the formal decision making process and any view is both personal and provisional since not all relevant information will be to hand and the views of interested parties will not have been obtained.

10.0 MEMBERSHIP OF A LOBBY GROUP

- 10.1 Lobbying by Councillors is a legitimate activity but in the case of Members of the Licensing Committee or Sub Committee significant care needs to be taken to avoid any challenge of bias or predetermination or an allegation of bringing the Council into disrepute.
- 10.2 **You may** take part in a matter than involves issues upon which your lobby group has simply campaigned as long as your involvement has not resulted in you being biased and/or predetermining the matter.
- 10.3 **Do** weigh up the following factors where your lobby group has expressed a public view on a matter and consider whether a reasonable member of the public, knowing the relevant facts, would think that you are biased or have pre-determined a matter. The factors are:
- the nature of the matter to be discussed
 - the nature of your involvement with the lobby group
 - the publicly expressed views of the lobby group
 - what you have said or done in relation to the particular issue
- 10.4 **Do not** lead, be part of the management of, or represent an organisation whose primary purpose is to promote or oppose licensing proposals. If you do, you may have fettered your discretion (be biased/pre-determined) and have to withdraw.
- 10.5 **Do not** become a member of an organisation whose primary purpose is to promote or oppose specific licensing proposals or those within a limited geographical area as you may be perceived as having fettered your discretion (be biased/pre-determined).
- 10.6 **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular licensing proposals such as a local Civic

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Society but where that organisation has made representations on a particular proposal, you should make it clear to both the organisation and the Committee that you have not made up your mind on each separate proposal

- 10.7 **Do** remember that if the local branch of a general interest group has been vociferous or active on a particular issue or you are closely associated with the management or decision making process of that organisation such as being the Chairperson or a member of the Board or Committee, it will become increasingly difficult to demonstrate your ability to judge the matter with an open mind and you may consider that you are biased and/or pre-determined and should withdraw from the meeting.
- 10.8 **Do not** excessively lobby fellow members regarding your concerns or views or attempt to persuade them that they should decide how to vote in advance of the hearing at which the decision is to be made. It is difficult to define 'excessively' but you need to consider whether a member of the public, knowing the facts would think that, through your representations, the lobbied member was no longer able to take a view on the matter in the public interest but had predetermined it.
- 10.9 **Do not** publicly support a particular outcome on a proposal or actively campaign for it if you wish to take part in the decision making process. It would be very difficult for you to demonstrate that you had the necessary degree of impartiality to properly weigh the arguments presented and the decision would be open to challenge. Again it is a question of maintaining the fine balance between a predisposition where your mind is not totally made up and a predetermination. This would, however, not prevent you from expressing the views of your constituents provided you are capable of determining the application in accordance with the law.

11.0 SITE VISITS

11.1 Site Visits can play a legitimate part in the decision making exercise but must be limited to inspections by viewing and as a fact finding exercise. They are not to be used to determine a proposal prior to a hearing. Due to the tight timescales involved in licensing decisions, site visits must be viewed as an exception rather than the rule.

11.2 When undertaking a site visit Members should have regard to the following paragraphs of the Code of Practice for Determining Licensing Matters:

- ❖ Paragraph 4 - Bias and Predetermination in the Licensing Process.
- ❖ Paragraph 9 - Contact with Applicants and Objectors.

11.3 THIS SECTION APPLIES TO MEMBERS REQUESTS FOR A SITE VISIT

11.3.1 If a Member feels, on receipt of the report on an application that a site visit would be beneficial, s/he should first discuss their concerns with the Principal Licensing or Gambling Officer. Officers have powers to request additional information from parties, which can then be discussed at the hearing. This information may resolve the issues without the need for a site visit. If a Member still feels that a site visit is

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necessary then, in the interest of fairness, it is preferable that concerns should be expressed at the scheduled hearing since Members may find that the applicant, interested parties or responsible authorities can provide verbal information to the satisfaction of the Members present.

- 11.3.2 Views of the parties present must be canvassed and considered before a site visit is agreed since that is likely to result in a delay to the decision making.
- 11.3.3 In the case of a Sub Committee hearing, three Members or a 2:1 majority must be in favour of a site visit for arrangements to be made. The same three Members will be expected to undertake the requested site visit and attend the hearing for the application, which will be re-convened at a later date
- 11.3.4 In the case of a meeting of the Licensing Committee , a majority of the Members present must be in favour of a site visit
- 11.3.5 The same Members will be expected to undertake the requested site visit and be able to attend the re-convened meeting which will consider the application subsequent to the site visit
- 11.3.6 **DO** raise the need for a site visit at a hearing and be prepared to give reasons why it is of real benefit. The reason will be recorded in the Minutes.
- 11.3.7 **DO NOT** request a site visit unless there is a real benefit from viewing the site. This might arise where:-
- Particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection.
 - There are significant policy or precedent implications and specific site factors need to be carefully addressed.
 - Relevant factors cannot be fully ascertained from any supporting information or the plans submitted to the Licensing Officer and available at the hearing, to Members satisfaction.

11.4 THIS SECTION APPLIES TO SITE VISITS AS PROPOSED BY OFFICERS

- 11.4.1 The Principal Licensing or Gambling Officer may suggest the Committee or a Sub Committee undertake a Site Visit without prior discussion at a hearing, where in the professional opinion of the Officer there is a real benefit from viewing the site.
- 11.4.2 In such cases, officers will approach Members seeking a date for the site visit and hearing – usually in the form of an e-mail in the first instance.
- 11.4.3 The e-mail should set out the proposal for a site visit, the reasons behind the request; the projected benefit for Members; the address of the premise; the type of application and set out the arrangements for the day.

Code of Practice for Determining Licensing Matters

11.4.4 In such cases it is usual for the site visit to commence at 9.30 am (departing from the Civic Hall) and for the formal meeting to commence at 11.00 am in the Civic Hall to determine the application. As such it is anticipated that hearings will not conclude until the afternoon.

11.4.5 Having done this, officers will seek confirmation from the Members able to attend that they are happy to undertake the propose site visit.

11.5 ON THE SITE VISIT

11.5.1 **DO** ensure that any information gained from the site visit is reported back at the subsequent hearing.

11.5.2 **DO** ensure that you treat the site visit as an opportunity to seek information and to observe the site. It is not to be used to determine a matter prior to the hearing.

11.5.3 **DO** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.

11.5.4 **DO** be prepared to listen to and ask questions of fact from the Applicant or other parties.

11.5.5 **DO** be aware that Officers will make all parties aware of the site visit. All parties may attend subject to being granted access by the owner (see below). If only one party is present be particularly careful only to obtain information and ensure that that information is repeated at the public meeting where the other parties have a right to comment on it.

11.5.6 **DO** be aware that access to the site is at the discretion of the owner. The owner can legitimately refuse access to objectors and even Members. If access is to be refused consider whether it is still appropriate to undertake the visit.

11.5.7 **DO NOT** be drawn into arguments or detailed discussions on the individual merits of an application or give the impression that you have made up your mind.

Note that the decision can only be made at the Licensing Hearing and you should make this clear to any applicant or other party.

11.5.8 **DO** note comments of the applicant or other parties which are made solely for the purpose of making members aware of any specific local circumstances and issues relevant to the application site.

11.5.9 **DO NOT** express opinions or views to anyone which can suggest bias or predetermination. As indicated above, you should make it clear that formal consideration of the proposal will take place in public at the subsequent hearing/meeting.

11.5.10 **DO NOT** enter a site which is subject to an application otherwise than on a formal site visit although this does not prevent you from viewing the site from the highway or other publicly accessible area.

12.0 TRAINING

- 12.1 Members making licensing decisions must attend two training sessions each and every year:
- a Licensing Update session, to receive guidance in relation to regulations and procedures; and
 - a Governance and Conduct session, for training on disclosable pecuniary interests and the Members' Code of Conduct.
- 12.2 Failure to undertake either or both sessions will result in the Elected Member being unable to sit on the Licensing Committee or Sub Committee. Therefore, **do not** participate in decision making on licensing matters if you have not undertaken mandatory training.
- 12.3 **Do** try to attend any other specialised training session provided, since these will be designed to extend your knowledge of licensing law, regulations, procedures and Policies beyond the minimum required and assist you in carrying out your role properly and effectively.
- 12.4 **Do** revisit a sample of implemented licensing decisions to assess the quality of the decisions. Such a review should improve the quality and consistency of decision-making, thereby strengthening public, confidence in the licensing system, and can help with reviews of planning policies.

13.0 OFFICERS

- 13.1 Councillors and officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate whilst officers are responsible to the Council as a whole. Officers are employed by the Council and not by individual Councillors and instructions can only be given through a decision of the Council, the Executive or a Panel or Committee. A successful relationship can only be based on mutual respect, trust, courtesy and understanding of each others positions.
- 13.2 The role of the Legal officer is to assist the committee in gathering evidence and understanding all relevant issues in order for Members to make a decision, and to advise on the sub committees' legal duties under the relevant legislation and on the admissibility of evidence.
- 13.3 All legal advice should be given or repeated in open session for all parties to be made aware of.
- 13.4 The role of the Governance Officer is to facilitate the smooth running of the hearing; advise on the Rules of Procedure and Regulations relating to hearings; make notes of the proceedings and reasons for granting or refusing applications; and ensure that decision letters are sent to all parties as soon as possible after the hearing.

Code of Practice for Determining Licensing Matters

- 13.5 The role of the Licensing Officer attending the hearing is neutral. They will make no recommendations to the Committee and attend hearings only to provide a summary report of the application, giving details of the representations received and any relevant legislative or policy considerations. However there is a separate but distinct officer role which is exercised by Liaison and Enforcement Officers from Entertainment Licensing who may make representations on applications or seek reviews. The roles of these officers and the Licensing Officer processing applications and hearing reports are (and must remain) separate.
- 13.6 **Do not** put pressure on Licensing officers to put forward a particular recommendation.
- 13.7 **Do** recognise that officers are part of a management structure and only discuss an application, outside of any arranged meeting with those officers who are authorised to deal with the application at Member level.
- 13.8 **Do** recognise and respect that officers involved in the processing and determination of licensing application must act in accordance with the Council's Employee Code of Conduct. As a result, officers reports will be presented on the basis of their overriding obligation of professional independence.

14.0 RELATIONSHIP WITH THE EMPLOYEE CODE OF CONDUCT

- 14.1 The Council has an approved Employee Code of Conduct. That Code applies at all times when officers are involved in the licensing process. This includes decision making by officers under delegated powers and attendance at meetings whether those are formal decision making meetings or informal meetings with members or the public.
- 14.2 Officers must apply the rules in the Employee Code of Conduct at all times. If they do not they may put the Council at risk of proceedings on the legality of any related decision, and may put themselves at risk of disciplinary action.
- 14.3 Generally licensing officers have little discretion in making licensing decisions. For example, they may only grant licences where there are no objections. However there may be situations where they are called upon to exercise discretion such as deciding whether an objection is relevant. Other officers such as those employed by Environmental Health or Development have discretion on whether to object. Legal officers and committee clerks remain in the room with Members when decisions are made.
- 14.4 In all cases officers must avoid any improper conduct or occasion for suspicion of the appearance of improper conduct and should:-
- Ensure that they have given notice of any financial interest in any contract which has been or is proposed to be entered into by the Council.
 - Not accept gifts, entertainment, hospitality or any benefits in kind as set out in the Employee Code of Conduct.

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- Declare to their Director by completing the Register of Interests Form any personal interests which may conflict with licensing applications such as:
 - any involvement with an outside organisation which has an interest in any licensing application;
 - any financial interest in any licensing application; and
 - any other interest where others may think that a conflict of interest may arise. Examples of such situations include where the officer lives adjacent to any licensed premises or visits the premises in a personal capacity on a regular basis.

14.5 Officers should also consider whether their spouse, partner or close relative has a financial or other interest in a licensing application which may give rise to the suspicion of the appearance of improper conduct and where the officer may therefore need to declare an interest.

14.6 Where an officer has declared an interest he or she should not participate in the processing of a licensing application but should instead refer the matter to his or her Manager who will arrange for another officer to discharge the duties.

15.0 PROCEDURES AT LICENSING HEARINGS

15.1 The Licensing Committee and Sub Committee Procedure Rules (Part 4(n) of the Constitution), set out the procedure for hearings before the Licensing Committee and Sub Committees.

16.0 MONITORING AND REVIEW

16.1 The Monitoring Officer will report to the Standards and Conduct Committee regarding any proposals for amendment to this code of practice following consultation with the Licensing Committee.

16.2 The Monitoring Officer shall monitor the following, and will report annually to the Corporate Governance and Audit Committee in relation to these matters:-

- the number of appeals upheld;
- any external inspection reports in respect of relevant issues; and
- any ombudsman complaints or reports in respect of relevant issues.

17.0 BREACHES OF THE CODE OF PRACTICE

17.1 In relation to Leeds City Councillors, failure to comply with the Members' Code of Conduct may lead to a complaint to the Standards and Conduct Committee, and failure to comply with the rules in relation to Disclosable Pecuniary Interests may lead to the Member committing a criminal offence.

17.2 Failure to comply with this code of practice may lead to a finding of maladministration by the Ombudsman or could lead to a decision being challenged in the courts.

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- 17.3 Allegations of a breach of this code of practice by Officers will be referred to the relevant Director for consideration under the Council's Disciplinary Procedure.



Report author: Seamus Kennedy
 Tel: 51874

Report of the Head of Licensing and Registration

Report to Licensing Committee

Date: 14th August 2012

**Subject: Entertainment Licensing Section – Enforcement and Liaison Team
 Enforcement Activity Update (April to June 2012)**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary of main issues

1. This report provides an update to the activities of the Entertainment Licensing Sections (ELS) Liaison and Enforcement Team who work with premises and partner agencies to promote the licensing objectives and licence compliance.

Recommendations

2. That Licensing Committee note the contents of the report.

1.0 Purpose of this report

- 1.1 To provide an update to Members of the Licensing Committee of the work carried out by the ELS Liaison and Enforcement Team between the period 1 April until 30th June 2012.

2.0 Background information

- 2.1 The ELS Liaison and Enforcement Team comprises of five senior officers managed by a principal officer.
- 2.2 The main role of the team is to work with partner agencies and premises to promote the licensing objectives and to ensure compliance with the licences and permits

granted by the licensing authority. They seek to achieve this through multi-agency inspections, action planning meetings, supporting review hearings and, as a last resort, through prosecution or instigating a review under the Licensing Act as a responsible authority.

2.3 The team's work is underpinned by the Responsible Authority Joint Enforcement Protocol which is an enforcement agreement with all the responsible authorities and other partner agencies such as UK Border Agency and Leeds City Council Community Safety.

3.0 Main issues

3.1 This report presents the activities undertaken by the team between April and June 2012 for information and discussion.

3.2 Standard Joint Operations

3.3 During the reporting period joint licensing compliance visits have taken place together with the West Yorkshire Police Neighbourhood Policing Teams (NPTs) across the City in both inner and outer areas. In summary, visits have taken place with the following Neighbourhood Policing Teams.

- Otley NPT
- Stainbeck NPT
- Pudsey NPT
- City NPT (Operation Capitol)
- Morley NPT
- Holbeck NPT

3.4 Visits conducted with NPTs will often include visits in other areas e.g. City NPT may include visits to the LS10 area. In addition, some visits have included participation by other agencies e.g. UK Border Agency (UKBA), Her Majesty's Revenue and Customs (HMRC).

3.5 Joint city centre visits with West Yorkshire Police (and other agencies, as required), take place on at least one occasion per month (Operation Capitol).

3.6 Other Joint Operations

3.7 On the 26th April 2012 ELS enforcement officers participated in a planned operation with officers from Her Majesty's Revenue & Customs (HMRC) in respect of a complaint for a premises in the Leeds 9 area where it was suspected offences may have been committed for non-payment of duty as well as Licensing Act issues. At the time of the visit no Licensing Act breaches were found. HMRC seized a quantity of tobacco suspected of not having duty paid on them.

3.8 On 12th April 2012 ELS Enforcement Officers participated in a planned multi agency operation (Operation Bowfin).

The aim of the operation was to tackle and disrupt anti-social behaviour through a series of initiatives including stop and search. In addition, a number of other agencies took part in the operation to look at issues relevant to their respective service areas. ELS enforcement conducted compliance checks into scrap metal dealers and scrap waste carriers in response to ongoing regional and national metal thefts e.g. signalling cable from the railways network, telecommunications infrastructure. The operation was arranged between partner agencies through a number of mediums including the newly formed city centre Six Weekly Tasking Meeting (see paragraph 3.30, below).

The following agencies took part in the day's operation:

West Yorkshire Police, LCC Taxi and Private Hire Licensing, Leeds Anti-Social Behaviour Team, HMRC, HM Warrants, West Yorkshire Trading Standards, LCC Environmental Action Enforcement Team, Housing, West Yorkshire Fire & Rescue Service, LCC Entertainment Licensing.

3.9 Formal actions

- 3.10 Abids – Stainbeck Lane, Chapel Allerton, Leeds 7.
Offence: unauthorised provision of late night refreshment.
Trial held at Leeds Magistrates' Court on 03.05.12. The defendant pleaded guilty to both offences and was convicted. Fine: £250 for each offence. Ordered to pay costs of £1184.00 and a victims' surcharge of £15.
- 3.11 D'Fusion, New Briggate, Leeds 1.
Licence Review (brought by the West Yorkshire Police on the grounds of crime and disorder issues associated with the premises). Premises licence subsequently revoked (An appeal against the premises licence review decision has been lodged. Also, a new premises licence application for the site has been made and is currently within the 28 day consultation period) .
- 3.12 Entertainment Licensing enforcement officers supplied witness statements in support of the review application detailing their involvement with the premises and management (Note – the premises operator previously successfully prosecuted by the Entertainment Licensing Enforcement Team in 2008 for a number of Licensing Act breaches resulting in £4,000 fines and £4097.90 costs awarded to Leeds CC).
- 3.13 Proceeds of Crime Act (court hearing outcome)
- 3.14 Following a lengthy investigation by ELS enforcement and West Yorkshire Trading Standards Service in to an unlicensed sex shop operating from a residential property in Beeston, Leeds 11, selling unclassified pornographic DVDs by mail order etc resulting in criminal convictions (July 2011), both services jointly applied for Proceeds of Crime Act (POCA) against the convicted offender.

- 3.15 In respect of the criminal convictions in July 2011, the offender was sentenced to six months imprisonment, suspended for two years and ordered to undertake 150 hours of unpaid work.
- 3.16 In respect of the proceeds of crime element, ELS together with West Yorkshire Trading Standards Service jointly instructed the Kirklees Council POCA Team to investigate the convicted offender's financial assets.
- 3.17 In March 2012 at Leeds Crown Court the convicted offender was ordered to repay £55,000 from the proceeds of his criminal activities.
- 3.18 Outdoor Events
- 3.19 ELS enforcement continue to be actively engaged in the city's summer programme of outdoor events, which involves attending multi-agency safety advisory groups in the planning phase lead-up as well as undertaking risk-based compliance visits to selected events.
- 3.20 Leeds Alcohol Management Board
- 3.21 ELS is represented at the regular meetings of the Leeds Alcohol Management Board which looks at ways of reducing alcohol harm across the city on a strategic footing.
- 3.22 A concern raised by the board members was the availability of wine in small measures and free drinking water which is now a mandatory condition of the Licensing Act. It was considered by the board that a number of licensed premises were failing to offer alcohol in the smaller measures.
- 3.23 In response, ELS enforcement officers factored these checks into their programme of visits. In addition officers included checks on a third mandatory licence condition concerning drinks promotions and whether there were 'irresponsible' drinks promotions being run at licensed premises.
- 3.24 Findings to date have found a high compliance rate among operators for the three mandatory licence conditions. Where non-compliance was noted this was immediately rectified.
- 3.25 Six Weekly Tasking Meetings
- 3.26 In February this year a new 'grass roots level' six weekly tasking meeting was set up for the city centre, chaired by West Yorkshire Police and attended by a variety of partner agencies including ELS. The main aim of this tasking regime is to break down barriers to partnership working, allow attendees to make and develop contacts in all the partner agencies and to facilitate easier, quicker partnership working in delivering positive outcomes. The tasking meeting complements existing higher level multi agency groups for the city centre, such as, the City Centre Divisional Community Safety Partnership which meets every three months.

3.27 Pubwatch

3.28 Enforcement officers continue to engage with operators offering guidance on the mandatory licensing conditions. In addition officers utilise the many Pubwatch forums across the Leeds district which are attended by premises management / representatives to offer guidance on mandatory licensing conditions requirements and how to comply with them.

3.29 Complaints investigated by Entertainment Licensing Enforcement

3.30 For the reporting period April to June 2012 a total of 70 complaints have been or are still being investigated by the ELS enforcement team. The complaints received are from members of the public, elected members, businesses, agencies as well as self-generated by the enforcement team. The majority of complaints are for matters pertaining to the Licensing Act typically for unregulated licensable activities, excessive noise, going beyond permitted hours/activities, breach of one or more licence conditions, unlicensed premises (e.g. hot food takeaways).

3.31 Of the 70 complaints investigated by the Enforcement Team forty-six have been resolved and closed out. Twenty-four complaints are still being investigated, some in conjunction with other agencies.

3.32 A selection of the complaints investigated by the Enforcement Team included:

- Complaint referred by Trading Standards regarding the alleged sales of alcohol being made at an off-licence in the Leeds 12 area by a person under the age 18 years. ELS enforcement visited the premises and provided advice in accordance with the Licensing Act. Trading Standards were made aware of the outcome and to collectively monitor the premises for compliance.
- Scrap metal dealer operating from a residential address creating nuisance to residents. The complaint also revealed the storage of red diesel and child protection issues. It transpired that the operator was properly registered as a scrap metal dealer, and the other matters are now being addressed and monitored via the Local Neighbourhood Policing Team.
- Complaint concerning a suspected breach of the Gambling Act by a public house member of staff acting as a betting intermediary without proper licence authorisation. ELS enforcement attended the public house in company with the police and found a number of betting slips on the premises indicating betting was taking place. The DPS admitted taking bets on behalf of customers to an established betting organisation but unaware that he was acting in contrary to legislation. Matter resolved and premises to be monitored by the Enforcement Team. Gambling Commission informed.
- Complaint referred by Leeds CC Planning Compliance Team about food takeaway premises suspected of providing hot food after 11pm without a licence. Planning Compliance looking in to possible planning consent

contraventions. Warning letter sent to the premises by ELS enforcement and followed by a visit to the premises at 11.50pm when the premises were found closed. A further visit is to take place and if a negative outcome the complaint investigation will be closed.

- Complaint received for a late bar allegedly allowing persons under the age of 18 on to the premises and consuming alcohol. ELS enforcement officers and West Yorkshire Police arranged an action planning meeting with the premises licence holder to discuss concerns and agree action point objectives to address issues. Premises agreed to employ additional door-staff to address issues identified by agencies. Also, at the request of Licensing and the police, additional cctv camera installed at the entrance to the premises to capture head shots of all customers (West Yorkshire Police Imaging Unit have since undertaken a detailed cctv imaging survey of the premises). Agencies to monitor the premises for compliance.
- Complaints received from several residents about excessive noise experienced from a temporary event notice held by a private members club. Noise complaints were logged with the police and the council's Environmental Protection Team. ELS enforcement, the police and the Environmental Protection Team engaged with the club's management to discuss and address concerns. During the course of enquiries it was identified that the club was operating in contravention of their existing Club Premises Certificate by publicly advertising events and allowing the public to make use of the club facilities. Advice has been provided to the club and most matters have now been resolved. Agencies continue to monitor.

4.0 Corporate Considerations

4.1 Consultation and Engagement

- 4.2 ELS host monthly meetings of the Licensing Enforcement Group (L.E.G.) which involves all responsible authorities and other partners to discuss issues relating to the licensing objectives of the Licensing Act 2003 and licence compliance. Actions to address areas of regulatory and enforcement concerns are agreed, utilising all available partner agency resources, where appropriate, to secure compliance by the most effective and efficient means.

5.0 Equality and Diversity / Cohesion and Integration

- 5.1 There are no matters which specifically relate to equality and diversity issues. All Entertainment Licensing activities are subject to an equality, diversity, cohesion and integration impact assessment which is undertaken every three years. The last impact assessment was carried out in 2010.

6.0 Council Policies and City Priorities

- 6.1 The work of the ELS enforcement team is underpinned by the individual Statement of Licensing Policies for the Licensing Act 2003, Gambling Act 2005 and the

Licensing of Sex Establishments. These policies address relevant objectives as prescribed by legislation, but in the main offer to protect the vulnerable and children, and prevent nuisance, crime and disorder and promote safety.

All partner agencies have entered into a Responsible Authority Joint Enforcement Protocol which agrees enforcement action and the responsibilities of each partner agency.

7.0 Resources and Value for Money

7.1 The ELS enforcement team continue to engage with other services and agencies internal and external to the Council and through the Licensing Enforcement Group intelligence and data is brought together to identify key areas for partnership working.

8.0 Legal Implications, Access to Information and Call In

8.1 All information provided in this report is publicly accessible and there is no legal implication to the recommendations of this report.

9.0 Risk Management

9.1 As this is an advisory report there are no risks associated.

10.0 Conclusions

10.1 ELS enforcement team provide support and specialist advice to the licensed trade and similarly are available to provide a service to the public.

The team work in partnership with other services internal and external to the Council to uphold the licensing objectives and the priorities for Leeds.

The activities over the last reporting period have been described in this report for Member's information and discussion.

11.0 Recommendations

11.1 That members note the contents of the report and to agree a further update report for the period 1 July – 31st December 2012.

Background Papers

Responsible Authority Joint Enforcement Protocol

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Report of the Head of Licensing and Registration

Report to the Licensing Sub Committee

Date: 14th August 2012

Subject: Leeds Festival 2012 Update

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):	Wetherby	
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:	Information Procedure Rule 10.4 (3)	
Appendix number:	B	

EXECUTIVE SUMMARY

The annual Leeds Festival will take place at Bramham Park from Friday 24 August to Sunday 26 August 2012. The event is authorised under a premises licence granted under the Licensing Act 2003, subject to certain conditions.

1.0 Purpose of this Report

- 1.1 This report advises Members of the progress of the multi agency meetings and the Event Management Plan for the 2012 annual festival.
- 1.2 The Licensing Committee is required to consider this report and take such steps it considers appropriate to promote the licensing objectives as detailed in paragraph 6.3 of this report.

2.0 BACKGROUND INFORMATION

- 2.1 The premises licence for the Leeds Festival was considered and approved by the Members of the Licensing Committee on the 28 April 2006.
- 2.2 The licence is held for Bramham Park and allows the festival to take place every August Bank Holiday weekend.
- 2.3 Members resolved to grant the application as requested and accepted the applicants offer to include the following additional three conditions:

- 1) There shall be an Event Management Plan which incorporates the operating schedule submitted to the Licensing Authority at least 6 months prior to the festival each year.
- 2) The Event Management Plan and any revisions to the Event Management Plan must be approved by the Licensing Authority prior to the festival.
- 3) The Premises Licence Holder shall comply with the terms and requirements of the Event Management Plan each year.

2.4 In addition, the Committee reserved the right to determine how the final amended Event Management Plan for the festival should be agreed with the facility for the final plan to be agreed by the Committee or officers under delegated authority.

2.5 Following a number of successful variation applications the Premises Licence permits the activities as detailed in Appendix 1.

3.0 MAIN ISSUES

3.1 The draft event management plan for the 2012 festival was supplied to the Licensing Authority and responsible authorities on 24 January 2012. As in previous years a summary of key changes following the 2011 event were circulated to Members of the Licensing Committee and ward members.

3.2 A further copy of the summary of changes is provided with this report for Members attention at appendix 2. It should be noted that the contents of the event management plan and the document containing the summary of changes are potentially exempt information under Access to Information Procedure Rule 10.4 (3) as these include information relating to the financial or business affairs of any particular person.

Members are asked to consider exclusion of the press and public from the hearing if those matters contained within the summary of changes are to be discussed.

3.3 The maximum capacity for the event site is 89,999 in total. The intention being that the event would increase by 5,000 capacity each year until the 89,999 capacity is reached. The Event Management Plan for 2012 is set for a capacity of 75,000 the same figure as 2011. If ticket sales exceed 75,000 the Event Management Plan will be amended accordingly subject to consultation and agreement with the responsible authorities.

3.4 To ensure the widest circulation of information the Leeds Festival management have held meetings with the Parish/Town Councils in the areas surrounding the site and maintained regular contact.

3.5 The first multi agency meeting was held on the 1 March 2012 and these meetings have continued on a regular basis.

3.6 The next multi agency meeting will be held on the 9 August 2012 where all agencies will be asked if they are satisfied with progress to date with the contents of the final Event Management Plan. Officers will provide Members of the Licensing Committee with a verbal update following this meeting.

4.0 IMPLICATIONS FOR COUNCIL POLICY AND GOVERNANCE

4.1 There are no implications for Council policy and governance in respect of determining this application.

5.0 LEGAL AND RESOURCES IMPLICATIONS

- 5.1 There is no provision for the premises licence to be open for consideration at this point in time given that the licence and subsequent revisions to the terms of the licence have been previously approved. Instead members should consider whether and how to approve the Event Management Plan as required under condition 2 of the licence.
- 5.2 Relevant enforcement action would be taken against any failure to comply with the terms and conditions of the licence or alternatively a responsible authority or interested party may apply for the review of the licence on the grounds of one or more of the four licensing objectives.

6.0 OPTIONS AVAILABLE TO MEMBERS

- 6.1 Members of the Licensing Committee must make decisions with a view to promoting the Licensing objectives which are:
- 1) the prevention of crime and disorder
 - 2) public safety
 - 3) the prevention of public nuisance
 - 4) the protection of children from harm
- 6.2 Whilst there should be no major amendments to the Event Management Plan there is still scope for minor changes in accordance with the relevant agency approval. It would therefore not be appropriate for Members to approve the Event Management Plan today as it is not in its final form.
- 6.3 Members may therefore consider it more appropriate, as in previous years to:
- a) Give delegated authority to the Head of Licensing and Registration to approve the Event Management Plan prior to the start of the event.
- and
- b) Give delegated authority to the Head of Licensing and Registration to approve any minor amendments to the Event Management Plan prior to the start of the event.
- 6.4 Should the Event Management Plan be subject to amendment without the relevant agency consent, or be of a nature which officers consider may impact on the licensing objectives then the Event Management Plan will be brought back before the Licensing Committee prior to the event taking place.

7.0 RECOMMENDATIONS

- 7.1 That Members consider the Event Management Plan and take such steps set out in paragraph 6.3.

BACKGROUND PAPERS

Guidance issued under section 182 of the Licensing Act 2003
Leeds City Council Licensing Policy

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Part A

Schedule 12 Licensing Act 2003

Current Licence effective from:

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description

Leeds Festival, Bramham Park, Thorner Road, Wothersome, Wetherby, Leeds, LS23 6ND

Telephone number: 0207 009 3000

Licensable activities authorised by this licence

Sale by retail of alcohol, Provision of late night refreshment, Performance of a play, Exhibition of a film, Performance of live music, Performance of recorded music, Performance of dance, Entertainment similar to live music, recorded music or dance, Provision of facilities for making music, Provision of facilities for dancing, Provision of facilities for anything similar to making music or dancing,

Times the licence authorises the carrying out of licensable activities

<i>Sale by retail of alcohol</i>		<i>Entertainment similar to live music, recorded music or dance</i>	
Every Day	00:01 - 00:00	Thursday	19:00 - 03:00
		Friday to Sunday	12:00 - 06:00
<i>Provision of late night refreshment</i>		<i>Provision of facilities for making music</i>	
Wednesday to Sunday	23:00 - 05:00	Thursday	19:00 - 03:00
		Friday, Saturday & Sunday	12:00 - 06:00
<i>Performance of a play</i>		<i>Provision of facilities for dancing</i>	
Thursday	19:00 - 03:00	Thursday	19:00 - 03:00
Friday to Sunday	12:00 - 03:00	Friday to Sunday	12:00 - 06:00
<i>Exhibition of a film</i>		<i>Provision of facilities for anything similar to making music or dancing</i>	
Thursday	19:00 - 03:00	Thursday	19:00 - 03:00
Friday to Sunday	12:00 - 06:00	Friday, Saturday & Sunday	12:00 - 06:00
<i>Performance of live music</i>		The opening hours of the premises	
Thursday	19:00 - 03:00	Everyday	00:01 - 00:00
Friday to Sunday	12:00 - 06:00		
<i>Performance of recorded music</i>			
Thursday	19:00 - 03:00		
Friday to Sunday	12:00 - 06:00		
<i>Performance of dance</i>			
Thursday	19:00 - 03:00		
Friday to Sunday	12:00 - 03:00		

Alcohol is sold for consumption on and off the premises

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Mr Melvin Benn
Festival Republic Ltd
35 Bow Street
London
WC2E 7AU

Email Address: mbenn@festivalrepublic.com

Registered number of holder, for example company number, charity number (where applicable)

Registered business number: 02948536

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Anne-Maria O'Sullivan
115 Sudbourne Road
London
SW2 5AF

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Personal licence number: PERS2980

Licensing authority: London Borough Of
Lambeth

Licence issued under the authority of Leeds City Council

Mr John Mulcahy
Head of Licensing and Registration Services
Licensing and Registration Services

Annex 1 – Mandatory Conditions

1. Only individuals licensed by the Security Industry Authority may be used at the premises to guard against:-
 - a. unauthorised access or occupation (e.g. through door supervision), or
 - b. outbreaks of disorder, or
 - c. damage
2. No supply of alcohol may be made under this licence
 - a. At a time when there is no designated premises supervisor in respect of the premises licence, or
 - b. At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
3. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
4. The admission of children under the age of 18 to film exhibitions permitted under the terms of this licence shall be restricted in accordance with any recommendations made
 - a. By the British Board of Film Classification (BBFC,) Where the film has been classified by the Board, or
 - b. By the Licensing Authority where no classification certificate has been granted by the BBFC, or,
 - c. where the licensing authority has notified the licence holder that section 20 (3) (b) (74 (3) (b) for clubs) of the Licensing Act 2003 applies to the film.
5. The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children -

- a. games or activities which require or encourage, or are designed to require or encourage, individuals to -
 - i. drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - ii. drink as much alcohol as possible (whether within a time limit or otherwise);
- b. provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
- c. provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

- d. provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on -
 - i. the outcome of a race, competition or other event or process, or
 - ii. the likelihood of anything occurring or not occurring;
 - e. selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
6. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
7. The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
- The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.
8. The responsible person shall ensure that -
- a. where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:
 - i. beer or cider. 1/2 pint;
 - ii. gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - iii. still wine in a glass:125 ml; and
 - b. customers are made aware of the availability of these measures
9. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

Annex 2 – Conditions consistent with the operating schedule

Additional details in respect of licensable activities authorised by this licence

Sale by retail of alcohol

Non standard timings:

Non Standard Timings and Seasonal Variations

The times and dates of licensable activities will be submitted and agreed within the Multi Agency forum at least 6 months prior to the festival or such lesser period as agreed from time to time within the multi agency forum.

The premises licence is for the on and off sales of alcohol to ticket holders for 24 hours on the dates which will be agreed within the multi agency forum.

This year the hours will be from 17:00hrs on Wednesday 22nd August to 03:00 hrs on Monday 27th August 2012

The licence also provides for the supply of alcohol to staff 24 hours on the dates which will be submitted and agreed with the multi agency forum at least 6 months prior to the festival each year or such lesser period as agreed from time to time with the multi agency forum.

This year the hours will be from 17:00hrs Monday 20th August to 23:00hrs on Tuesday 28th August 2012

The application for an extension of existing hours from 03:00hrs to 06:00hrs Saturday, Sunday and Monday submitted in March 2008 applies to the following campsites only:

Brown/Green campsite DJ
Orange campsite DJ
Yellow Bubble campsite DJ
Blue Valley campsite DJ
Red campsite DJ
Piccadilly campsite DJ
Silent Disco

The location and names of these campsites may be determined from a site plan submitted each year.

Provision of late night refreshment

Location of activity: Both indoors and outdoors

Performance of a play

Location of activity: Both indoors and outdoors

Exhibition of a film

Location of activity: Both indoors and outdoors

Performance of live music

Location of activity: Both indoors and outdoors

Performance of recorded music

Location of activity: Both indoors and outdoors

Performance of dance

Location of activity: Both indoors and outdoors

Provision of facilities for dancing

Location of activity: Both indoors and outdoors

Conditions consistent with the operating schedule relating to the licensing objectives

Public safety

10. The maximum permitted capacity at the event is 85,000 ticket holders and 4999 guests (89999 persons in total) The proposed capacity for each event will form part of the Event Management Plan notified to the Licensing Authority and the Multi Agency partners under the conditions of this Licence.

General – All four licensing objectives

11. The Premises Licence Holder shall comply with the terms and requirements of the Event Management Plan each year.
12. There shall be an Event Management Plan which incorporates the Operating Schedule submitted to the Licensing Authority at least six months prior to the festival each year.
13. The Event Management Plan and any revisions to the Event Management Plan must be approved by the Licensing Authority prior to the Festival

Annex 3 – Conditions attached after a hearing by the licensing authority

Annex 4 – Plans

The plans for these premises are as those submitted with the application. A copy of which is held by Leeds City Council licensing authority.

Part B

Schedule 12 Licensing Act 2003

Premises Address Leeds Festival, Bramham Park, Thorner Road, Wothersome, Wetherby, Leeds, LS23 6ND

Licensable activities authorised by this licence

Sale by retail of alcohol, Provision of late night refreshment, Performance of a play, Exhibition of a film, Performance of live music, Performance of recorded music, Performance of dance, Entertainment similar to live music, recorded music or dance, Provision of facilities for making music, Provision of facilities for dancing, Provision of facilities for anything similar to making music or dancing,

Times the licence authorises the carrying out of licensable activities

<i>Sale by retail of alcohol</i>		<i>Entertainment similar to live music, recorded music or dance</i>	
Every Day	00:01 - 00:00	Thursday	19:00 - 03:00
<i>Provision of late night refreshment</i>		Friday to Sunday	12:00 - 06:00
Wednesday to Sunday	23:00 - 05:00	<i>Provision of facilities for making music</i>	
<i>Performance of a play</i>		Thursday	19:00 - 03:00
Thursday	19:00 - 03:00	Friday, Saturday & Sunday	12:00 - 06:00
Friday to Sunday	12:00 - 03:00	<i>Provision of facilities for dancing</i>	
<i>Exhibition of a film</i>		Thursday	19:00 - 03:00
Thursday	19:00 - 03:00	Friday to Sunday	12:00 - 06:00
Friday to Sunday	12:00 - 06:00	<i>Provision of facilities for anything similar to making music or dancing</i>	
<i>Performance of live music</i>		Thursday	19:00 - 03:00
Thursday	19:00 - 03:00	Friday, Saturday & Sunday	12:00 - 06:00
Friday to Sunday	12:00 - 06:00	The opening hours of the premises	
<i>Performance of recorded music</i>		Everyday	00:01 - 00:00
Thursday	19:00 - 03:00		
Friday to Sunday	12:00 - 06:00		
<i>Performance of dance</i>			
Thursday	19:00 - 03:00		
Friday to Sunday	12:00 - 03:00		

Alcohol is sold for consumption on and off the premises

Premises licence holder(s): Mr Melvin Benn, Festival Republic Ltd, 35 Bow Street, London, WC2E 7AU

Registered number of holder(s): 02948536

Designated premises supervisor: Anne-Maria O'Sullivan

Access to the premises by children is unrestricted.

Licence Issued under the authority of Leeds City Council

Mr John Mulcahy
Head of Licensing and Registration Services
Licensing and Registration Services

Licence produced on 26/07/2012 at 12:29
by Mrs Bridget Massey

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LICENSING COMMITTEE WORK PROGRAMME 2012/13- LAST UPDATED 13 June 2012 (hg)

ITEM	DESCRIPTION	NOTES	TYPE OF ITEM
Items Currently Unscheduled			
TPHL Policy Review – ongoing review of the policies/conditions	Review timetable was agreed Feb 11, they will return to Committee at the conclusion of the necessary consultation period (to include driver licences nationality & immigration status checks)	D Broster (Sept 2011 – Jan 2012)	DP
Sexual Entertainment Venues – policy review	Review of the Statement of Licensing Policy for Sexual Entertainment Venues	S Holden (Oct 2013)	DP

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
Meeting date: FRIDAY 25 MAY 2012 held. Annual Gov arrangements/s182 Guidance/Policy WG/SEV Training			
Meeting date: 26 JUNE 2012 HELD NVQ/VRG/Law Commission consultation/CRB renewals/GA2005 Policy/Harehills DPPO			
Meeting date: 24 JULY 2012 HELD WYP presentation/appeals outcomes/SEV & LA2003 policy review WGs/Casino Advisory Panel			
Meeting date: 14 AUGUST 2012			
Code of Practice	Revised code of practice for the Determination of Licensing Matters	G Marshall	PM
Enforcement & Liaison	Update on the work of the Entertainment Licensing Enforcement & Liaison Section	S Kennedy	B
Plying for Hire Policy/response to petition	Report back on the Plying for Hire Policy and receipt of petition from Alpha Radar	J Mulcahy/D Broster	PM/RP
Law Commission Consultation	Government proposals to reform the legal framework relating to HC & PH vehicles	J Mulcahy	B/SC
Leeds Festival 2012	Report on the progress towards this years event	N Raper	B
Meeting date: 11 SEPTEMBER 2012			
Meeting date: 16 OCTOBER 2012			
CRB renewals	Report on outcome of consultation regular renewals of CRBs for Licence Holders	D Broster	DP

LICENSING COMMITTEE WORK PROGRAMME 2012/13- LAST UPDATED 13 June 2012 (hg)

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
NVQ/VRQs for drivers	Report on outcome of consultation on review ongoing arising from the recommendations of the Working Group	D Broster	RP
Meeting date: 13 NOVEMBER 2012			
Meeting date: 18 DECEMBER 2012			
Meeting date: 15 JANUARY 2013			
Meeting date: 12 FEBRUARY 2013			
Enforcement & Liaison	Update on the work of the Entertainment Licensing Enforcement & Liaison Section	S Kennedy	B
City Centre Policing Update	Discussion on city centre premises, licensing and policing	WYP	B
Meeting date: 12 MARCH 2013			
Meeting date: 9 APRIL 2013			
Meeting date: 14 MAY 2013			

Key:

RP – Review of existing policy

DP – Development of new policy

PM – Performance management

B – Briefings

SC – Statutory consultation