



LICENSING COMMITTEE

MEETING TO BE HELD IN CIVIC HALL, LEEDS ON
TUESDAY, 12TH NOVEMBER, 2013 AT 10.00 AM

MEMBERSHIP

Councillors

K Bruce - Rothwell;
N Buckley - Alwoodley;
R Charwood (Chair) - Moortown;
R Downes - Otley and Yeadon;
J Dunn - Ardsley and Robin Hood;
B Gettings - Morley North;
T Hanley - Bramley and Stanningley;
M Harland - Kippax and Methley;
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 15.2 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 15.2, written notice of an appeal must be received by the Head of Governance Services at least 24 hours before the meeting)</p>	
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 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 13-16 of the Members' Code of Conduct.</p>	
5			<p>APOLOGIES FOR ABSENCE</p> <p>To receive apologies for absence (If any)</p>	
6			<p>MINUTES</p> <p>To approve the minutes of the last meeting held on 15th October 2013</p> <p>(copy attached)</p>	1 - 6
7	Wetherby		<p>THE LEEDS FESTIVAL - DE-BRIEF REPORT</p> <p>To consider the report of the Head of Licensing and Registration which provides details of the multi-agency de-briefing following the Leeds Festival 2013 held within the grounds of Bramham Park during August Bank Holiday weekend.</p> <p>(Report attached)</p>	7 - 22

Item No	Ward/Equal Opportunities	Item Not Open		Page No
8			<p>POLICY IN RESPECT OF THE IMMEDIATE SUSPENSION OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCES</p> <p>To consider the report of the Head of Licensing and Registration which provides information on the process undertaken by officers in respect of immediate suspension powers</p> <p>(Report attached)</p>	23 - 58
9			<p>PETITION BY HACKNEY CARRIAGE PROPRIETORS AND DRIVERS</p> <p>To consider the report of the Head of Licensing and Registration responding to issues raised in a petition received from Hackney Carriage Proprietors and Drivers</p> <p>(Report attached)</p>	59 - 70
10			<p>INTERIM REVIEW OF SEX ESTABLISHMENT FEES</p> <p>To consider the report of the Head of Licensing and Registration requesting consideration of proposals for a reduction in fees for sex shop and sex cinema licence renewals</p> <p>(Report attached)</p>	71 - 76
11			<p>LICENSING WORK PROGRAMME</p> <p>To note the contents of the Licensing Committee Work Programme 2013/14</p> <p>(Copy attached)</p>	77 - 80
12			<p>DATE AND TIME OF THE NEXT MEETING</p> <p>To note the date and time of the next meeting as Tuesday 17th December 2013 at 10:00 am</p>	

Agenda Item 6

Licensing Committee

Tuesday, 15th October, 2013

PRESENT: Councillor R Charlwood in the Chair

Councillors K Bruce, R Downes, J Dunn,
T Hanley, M Harland, G Hussain, G Hyde,
A Khan, P Latty, B Selby, C Townsley and
G Wilkinson

- 50 Exempt Information - Possible Exclusion of the Press and Public**
No items containing exempt information were included within the agenda papers; however the Committee noted that some of the discussions arising from the proposed presentation by West Yorkshire Police may contain information which would not ordinarily be available within the public domain, in terms of ongoing or planned operations. Members therefore agreed that, should any members of the public attend the meeting, those discussions would be held in private and at that point, the Committee would resolve to exclude the public. (minute 56 refers)
- 51 Late Items**
One formal late item of business was admitted to the agenda with the agreement of the chair and members of the Committee. "Equality Monitoring" had been omitted in error from the agenda, but had been circulated to all relevant parties prior to the meeting (minute 60 refers)
- 52 Declaration of Disclosable Pecuniary Interests**
There were no declarations of interest
- 53 Apologies for Absence**
Apologies were received from Councillors Buckley, Gettings and Khan. Additionally, Councillors Hyde and Selby had indicated they would be late as they were attending another meeting.
- 54 Minutes**
RESOLVED – That the minutes of the previous meeting held 16th September 2013 be agreed as a correct record
- 55 Matters Arising**
Minute 46 - Scrap Metal Dealers Act – The Committee discussed recent press coverage regarding the consultation undertaken and implementation of the new legislation. Members were keen to ensure that information on the necessary application process was widely available and it was agreed that officers would discuss measures to raise general awareness of the Act with LCC press office.
- 56 Policing and Night Time Economy Presentation - West Yorkshire Police**

The Committee received a presentation from officers of West Yorkshire Police (WYP) on issues relating to policing and the night time economy in Leeds pertinent to the work of the Licensing Committee and its' Sub Committees.

Sgt R Fullilove, Sgt D Shaw of the WYP Leeds District Licensing Team attended the meeting along with Chief Inspector S Palmer, the City Centre Commander. It was noted that no members of the public were present.

(Councillors Hyde and Selby joined the meeting at this point)

Sgt Fullilove provided the Committee with an update on the results of the Matrix system, used by WYP to monitor the performance of city centre licensed premises. Members received a copy of the top ten premises recorded on the Matrix system March to August 2013 within their agenda. Areas of concern were highlighted, along with actions taken to improve the performance of the premises. The current issues affecting the night time economy were detailed as being the quality of spirits sold; phone thefts; and the lack of CCTV coverage in certain areas of the City.

Sgt Shaw and Chief Inspector Palmer drew Members attention to the Tequila UK promotion night entitled "Fresher's Violation", held at Mezz Bar which had recently drawn local media coverage. The Committee received details of the promotion night, the concerns of WYP and the local reaction to the promotion. Members discussed issues related to the event in detail with WYP.

RESOLVED

- a) That the WYP representatives be thanked for their attendance and presentation
- b) That the contents of the presentation be noted
- c) That WYP be requested to keep the Committee apprised of the outcome of any future action regarding Tequila UK in Leeds

57 Shisha Smoking and Smoke Free Legislation

The Director of Environment and Neighbourhoods submitted a report providing the Committee with background information on smoke free legislation, the enforcement approach taken by the Council, particular issues with shisha bars and shisha smoking, and the on-going work to develop education and enforcement in these matters.

Ms R McCormack and Mr J Tootle of the LCC Health and Safety Team attended the meeting and reported that, in general, compliance with smoke free legislation was good however there was a common misconception that shisha smoking was exempt from the smoke free legislation, and there had been an increase in the number of shisha bars in the Leeds Area with a current count of more than 20.

The Committee heard of the options available to tackle the issue and noted that work was ongoing with other authorities and partners to establish best practice and alternative methods of enforcement. It was reported that the Council had undertaken 2 successful prosecutions against shisha bar owners

in May 2013. Officers provided examples of the tobacco products and a shisha pipe for Members reference.

(Councillor Downes left the meeting at this point)

Members' commented on the need to disseminate information on the harm to health caused by shisha smoking and the current discussions being held within other local authorities on whether the provision of shisha and the act of smoking shisha should be licensable activities. The Committee was keen to be involved in that wider debate and requested that approaches be made to the Local Government Authority and other local authorities leading the debate
RESOLVED –

- a) That the contents of the report and the comments made by Members be noted
- b) That officers be requested to present a report in six months time on
 - i. the progress made with regard to control and enforcement measures undertaken to tackle shisha smoking and
 - ii. information to generate discussion on how the Licensing Committee can continue to support the work of the Health and Safety Team in this regard

58 The Leeds Festival - De-Brief (Interim Report)

The Head of Licensing and Registration presented a report providing the Committee with an interim de-brief on the Leeds Festival 2013. Members noted that a full report would be presented to the November meeting, attended by the promoter.

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

RESOLVED – That the contents of the interim report; and the intention to bring a full debrief report to the Licensing Committee in November 2013, be noted

59 Wi - Fi in Taxis

The Head of Licensing and Registration presented a report highlighting the latest innovation of Wi-Fi in taxis and outlining a proposal received from a marketing company seeking to offer free Wi-Fi to passengers in licensed Hackney Carriages which already carry approved corporate livery. A copy of the proposal was contained in Appendix 1 of the report

The report clarified that the proposed policy did not seek to approve the supplier identified in the report as supplier for sole provision of the Wi-Fi service in vehicles; but would allow any supplier to approach Hackney Carriage proprietors with their proposals. The existing Corporate Livery policy (included as Appendix 2) provided the necessary controls and framework that all suppliers and proprietors were required to meet. The provision of a free Wi-Fi facility was felt to be a natural extension to that policy and Members were advised that it was necessary to consider the proposal as an amendment to the existing policy

Members welcomed the proposal and also considered whether it could be introduced throughout the wider licensed fleet. The Committee agreed that a review of take-up of Wi-Fi in eligible vehicles be undertaken with a further report back in six months setting out the results along with information exploring the possibility of introducing Wi-Fi for the rest of the licensed fleet

RESOLVED

- a) That the information contained in the report be noted
- b) That approval in principle be given for an amendment to be made to the existing corporate livery policy to facilitate the provision of Wi-Fi and
- c) That officers be directed to prepare a report for consideration under the Executive arrangements to approve the amendment
- d) That officers be requested to present an update report in six months' time containing information on the take up of the Wi-Fi in eligible vehicles and considering the introduction of Wi-Fi throughout the rest of the licensed fleet

60 Late Item - Information Report - Taxi and Private Hire Licensing Process for Equality Monitoring

Further to minute 45 of the meeting held 10th September 2013, the Head of Licensing and Registration submitted a further report on proposals for the Taxi and Private Hire Licensing Section (TPHL) to implement equality monitoring in response to Members request for further details.

The report contained information quantifying the resources required to support the proposed equality monitoring process as presented previously to Members, and concluded that there were no significant resource issues. An amended version of the proposed Equality Monitoring Form which was specific to taxi and private hire licence holders and responded to Members comments made at the September meeting was included within the report.

The Section Head, TPHL, presented the report and responded to Members queries setting out the main issues, including the administration process and associated cost of capturing the monitoring information. Members were advised that the data would need to be constantly refreshed to ensure that it corresponded to the current licensing date.

Information regarding response rates to equality monitoring undertaken by other Council Department's was noted. Members commented that the value of the data should be viewed cautiously if response rates were poor, furthermore the process of data collection should be reviewed if the returns were low. It was noted that any data collected would be referred to in the next bi-annual "decision making" report.

RESOLVED –

- a) That the contents of the report and Members observations be noted
- b) That, having considered the contents of the report and the benefits of equality monitoring, the Committee support the proposals and officers be directed to commence data collection to capture equality monitoring information in order to better understand the profile of service users
- c) To note that a further report will be provided after 3 months giving details of the response rates so far

61 Budget and Fees for Entertainment Licensing and Taxi and Private Hire Licensing

Further to minute 45 of the meeting held 10th September 2013 when Members requested further information on the budgets for both licensing sections, the Head of Licensing and Registration submitted a report providing an overview of the current budget for both the Taxi and Private Hire Licensing Section (TPHL) and the Entertainment Licensing Section (ELS) covering expenditure and income from fees.

Members had requested information on the running costs of the two licensing regimes in order to support their decision making in respect of future initiatives. The report included an overview of the budget for 2013/14 and details of the current fees set in each section, including those set by statute and the discretionary fees. A copy of the budget for 2013/14 for each section was included at Appendix 1.

Members discussed the contents of the budgets in detail and in respect of TPHL, requested further information on the staffing levels and vehicles/resources available. It was noted that the recruitment process for enforcement officers was almost complete, after which the proposed working arrangements would be implemented, subject to trade union consultation. Members commented on the trade's perception of the service provided by TPHL particularly in relation to enforcement matters

(Councillors Bruce and Dunn left the meeting at this point)

In response to comments, officers offered to make arrangements for Committee Members to attend training sessions for the new enforcement officers and join officers on night time enforcement activities.

RESOLVED –

- a) That the contents of the report be noted
- b) That officers be requested to provide the Committee with information setting out detail of staffing arrangements and resources available, particularly in relation to the TPHL Enforcement Team
- c) That arrangements be made for Members of the Committee to attend training sessions for the new TPHL enforcement officers and join officers on night time enforcement activities

62 Work Programme

RESOLVED – That, subject to the inclusion of any additional matters identified at this meeting, the contents of the Licensing Work Programme be noted

63 Date and time of Next Meeting

RESOLVED – To note the date and time of the next meeting as 12th November 2013 at 10:00 am

This page is intentionally left blank



Report author: Stephen Holder

Tel: 0113 2474095

Report of the Head of Licensing and Registration

Report to the Licensing Committee

Date: 12 November 2013

Subject: Leeds Festival 2013 - Members Debrief

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): Wetherby and Harewood		
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 type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. The Leeds Festival is an annual event held over the August Bank Holiday weekend within the grounds of Bramham Park. The Festival is held under the authorisation of a premises licence issued under the Licensing Act 2003.

Recommendations

2. The Licensing Committee is required to note the contents of this report. .

1.0 Purpose of this Report

- 1.1 This report provides Members with details of any matters arising from the Leeds Festival held between the 23rd and 25th August 2013.

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 granted to Mr. Benn 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 Members were presented with a report on the 2013 Festival arrangements at a meeting of the Licensing Committee held on the 13th August 2013.

2.6 Members resolved to give delegated authority to Mr. Mulcahy, the Head of Licensing and Registration, to approve the final Event Management Plan. This was duly approved on the 21 August 2013 following a visit to the festival site.

2.7 Full details of the licensable activities and hours of operation are detailed on the copy of the premises licence attached at Appendix A for Members information.

2.8 Members will note from the attached licence that whilst the main stage does not operate until Friday, limited entertainment is available on the Thursday evening for those camping.

3.0 Main Issues

3.1 The car parks and camp sites were opened to ticket holders on Wednesday 21st August 2013 following confirmation from the relevant agencies that the areas to be opened were fit for purpose.

3.2 Multi agency meetings were held on the following occasions:

- Thursday 22 August 17:00hrs
- Friday 23 August 17:00hrs
- Saturday 24 August 00:15hrs
- Saturday 25 August 17:00hrs
- Sunday 26 August 17:00hrs

3.3 At these meetings agencies would share information and statistics, and provide the licence holder with any matters requiring attention.

3.4 At the multi-agency meeting held on the Thursday it was forecasted for heavy rain and thunderstorms on the Saturday. Unfortunately an electrical storm arrived that Thursday evening which damaged two of the music marquees and caused serious ponding and muddy conditions throughout the site. Persons were safely evacuated from the marquees and repair works carried out.

- 3.5 Contingency plans were put in place for those people whose tents were destroyed, with additional welfare tents set up.
- 3.6 Remedial work continued throughout the festival to make walk ways and public areas accessible using straw and wood chip. However, due to the continual heavy downpours the site had no time to recover and the muddy conditions worsened throughout the weekend.
- 3.7 Recovery vehicles were deployed to car parks to assist in towing vehicles and additional fields were sourced for car parking.
- 3.8 Upon vehicles leaving the site mud was taken on to the highway, and whilst road sweepers were continually operating the conditions were such that there were reports of mud on the highway some distance from the Festival site.
- 3.9 The main exodus from the Festival site was on the Monday when reports were received of cleansing issues in the City Centre. People had alighted the shuttle buses in the area of City Square and discarded their muddy footwear. Mud had consequently been trodden around the footpaths.
- 3.10 A similar situation was reported within the Leeds Central Railway Station.
- 3.11 Following the event a meeting was held specifically to discuss the conditions arising due to the adverse weather conditions. This meeting was attended by the Chair of the Licensing Committee, Elected Members of the wards affected, officers from Street Cleansing/Enforcement and Traffic Management, and Mr. Benn the Festival organiser.
- 3.12 Mr Benn confirmed that contingencies were in place for wet conditions including road sweepers on standby, wood chip and straw supplies to hand and on hearing of the issues in the City Centre he dispatched a team to assist with the removal of the discarded foot ware.
- 3.13 Mr. Benn confirmed that he would look at revising the wet weather contingency plans in the Event Management Plan for future events to enable additional resources to be called in should similar weather conditions occur. These will be in liaison with the relevant Highways, Cleansing and Police officers.
- 3.14 A multi- agency debrief was held on the 7 October 2013 and a summary of the outcome of the meeting is attached at Appendix B.
- 3.15 Mr. Benn will be in attendance at this meeting to give Members a full report on the outcome of the event and details of any possible solutions/contingency plans for future events which may be put in place.

4.0 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 The application for a premises licence considered in 2006 underwent the full consultation process including a newspaper advertisement and public notices displayed around the site for the required 28 day notice period and full liaison with the Ward Members and responsible authorities. Mr. Benn continues to consult with community representatives through the Parish Councils and local residents on all aspects of the impact of the event.

4.2 Equality and Diversity/Cohesion and Integration

4.2.1 At the time of writing this report there were no implications for equality and diversity. Any decision taken by the Licensing Committee will be in accordance with the four licensing objectives as prescribed by the Licensing Act 2003.

4.3 Council Policies and City Priorities

4.3.1 When determining applications under the Licensing Act 2003 the Licensing Authority must have regard to the relevant legislation, guidance issued by the Home Office, the council's own statement of licensing policy and any associated local area guidance.

4.3.2 Applicants are expected to have had consideration to the relevant policy and any local area guidance when completing their applications and the licensing authority will refer to the policy/local area guidance when making its decision.

4.3.3 The licensing regime contribute to the following outcome:

Best Council Plan 2013-17:

- Improve the quality of life for our residents, particular those who are vulnerable or in poverty;
- Make it easier for people to do business with us; and
- Achieve the savings and efficiencies required to continue to deliver frontline services.

4.3.4 The application was granted in 2006 with regard to the Council's Licensing Act 2003 Statement of Licensing Policy, and the event will operate in accordance with the licensing objectives as set out in the current Statement of Licensing Policy 2011-2013.

4.4 Resources and Value for Money

4.4.1 There are no resource implications to the licensing authority. The premises licence is subject to an annual maintenance fee as prescribed under the Licensing Act 2003.

4.5 Legal Implications

4.5.1 There are no legal implications known to the Council in terms of its responsibilities held under the Licensing Act 2003.

4.6 Risk Management

- 4.6.1 The event is subject to a number of multi-agency meetings.
- 4.6.2 Any matters arising during the event having an implication on the premises licence and objectives of the Licensing Act will be brought back before the Licensing Committee.

5.0 Conclusions

- 5.1 This report advises Members that throughout the event and despite the weather conditions the event went well and it is reported that there was a good working relationship between the festival organisers and the responsible agencies. Issues arising during the egress from the site were discussed at the multi-agency de brief and it is anticipated that changes to the event management plan can be put in place for future events.

6.0 Recommendations

- 6.1 The Licensing Committee is required to note the contents of this report in respect of the de brief following the Leeds Festival 2013 held at Bramham Park.

7.0 Background Papers

None

This page is intentionally left blank

Details of premises licence

For: Leeds Festival



This document provides details of the premises licence issued to the stated premises and is not a licence itself.

Licence number: PREM/02193/005

Premises the licence relates to: Leeds Festival, Bramham Park, Thorner Road, Wothersome, Wetherby, Leeds, LS23 6ND

Date licence first effective: 28th April 2006

Date current version effective from:

Licensable activities authorised by the licence:

Sale by retail of alcohol
Every Day 00:01 - 00:00

Provision of late night refreshment
Wednesday to Sunday 23:00 - 05:00

Performance of a play
Thursday 19:00 - 03:00
Friday to Sunday 12:00 - 03:00

Exhibition of a film
Thursday 19:00 - 03:00
Friday to Sunday 12:00 - 06:00

Performance of live music
Thursday 19:00 - 03:00
Friday to Sunday 12:00 - 06:00

Performance of recorded music
Thursday 19:00 - 03:00
Friday to Sunday 12:00 - 06:00

Performance of dance
Thursday 19:00 - 03:00
Friday to Sunday 12:00 - 03:00

Entertainment similar to live music, recorded music or dance
Thursday 19:00 - 03:00
Friday to Sunday 12:00 - 06:00

Provision of facilities for making music
Thursday 19:00 - 03:00

Friday, Saturday & Sunday 12:00 - 06:00

Provision of facilities for dancing

Thursday 19:00 - 03:00

Friday to Sunday 12:00 - 06:00

Provision of facilities for anything similar to making music or dancing

Thursday 19:00 - 03:00

Friday, Saturday & Sunday 12:00 - 06:00

Opening hours of the premises:

Everyday 00:01 - 00:00

Premises licence holder(s):

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

Designated premises supervisor:

Anne-Maria O'Sullivan

Access to the premises by children

Access to the premises by children is unrestricted

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 21st August to 03:00 hrs on Monday 26th 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 19th August to 23:00hrs on Tuesday 27th 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

Entertainment similar to live music, recorded music or dance

Location of activity: Both indoors and outdoors

Provision of facilities for making music

Location of activity: Both indoors and outdoors

Provision of facilities for dancing

Location of activity: Both indoors and outdoors

Provision of facilities for anything similar to making music or dancing

Location of activity: Both indoors and outdoors

Conditions consistent with the operating schedule relating to the licensing objectives

General – All four licensing objectives

10. The Premises Licence Holder shall comply with the terms and requirements of the Event Management Plan each year.
11. 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.
12. The Event Management Plan and any revisions to the Event Management Plan must be approved by the Licensing Authority prior to the Festival

Public safety

13. 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.

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

None

Leeds Festival 2013 : Multi- Agency Debrief

West Yorkshire Police

169 crimes were recorded for the festival this year (**160 in 2012**).

Reported Incidents

The recorded incidents we have can be broken down as follows:

- 2 x arsons which relate to incidents in various camping areas
- 12 x assaults (non-sexual) in various locations throughout the site none of which are of a serious nature
- 4 x possession of controlled drug offences at various locations throughout the site
- 7 x possession with intent to supply & supply of controlled drug offences at various locations throughout the site
- 3 x drunk & disorderly offences, various locations throughout the site
- 4 x damage or interference with motor vehicles, various car parks
- 1 x handling stolen goods, no location recorded
- 1 x TWOC Red Parking
- 1 x driving whilst over the prescribed limit
- 1 x possession of offensive weapon, no location recorded
- 2 x public orders offences both of a minor nature unknown camping area
- 3 x sexual offences
- 10 x thefts from motor vehicles at various locations (5 in Red car park)
- 83 x various theft offences throughout the site
- 35 x thefts from person in various locations (17 in the main arena)

Arrests

Throughout the event there have been 30 arrests (**32 in 2012**) some of which were for multiple offences which can be broken down as follows:

- 10 x drugs related arrests
- 8 x arrests for assault offences
- 1 x handling Stolen Goods
- 1 x sexual offence
- 4 x theft offences
- 1 x driving whilst over prescribed limit
- 2 x public order offences
- 1 x possession of a bladed article
- 2 x breach of the peace

Of the 30 that were arrested 16 of the suspects have had a positive disposable (Charge or Caution),7 are still currently on police bail pending further enquiries (mostly awaiting forensic results) and 7 released with no further police action.

The drug surrender bins placed at the entrances to the site worked well with an estimated £32,000 (festival value) surrendered. It was recommended that passive drugs dogs be looked at for future events to increase the amounts surrendered.

Incident of note

The only major incident of note relating to the police operation within the festival site was the death of an adult male in his late teens who had been brought to medical having collapsed in the main area. The gentleman in question had been found as the arena cleared after the final band finished and despite the efforts of the medical team he sadly died. The death is not being treated as suspicious but as with all unexpected deaths a file is being prepared for H M Coroner.

Environmental Protection

It was a busy year for the noise team and although all the monitoring was within the licensed limits, 30 noise complaints were received, **(38 in 2012)** the majority of these were pre 23:00hrs.

Complaints by Area

Scholes & Barwick	15
Boston Spa	1
Thorner	5
Bardsey	1
Wetherby	5
Whinmoor & Stanks	3
Bramham	2
Whinmoor	1

In spite of its re location the 'Relentless' stage did cause some issues and a more suitable location may be required for 2014. It was considered that the campsite DJ's were in some cases playing over the noise from Relentless and the relocation or reduction of these sites should be considered for next year.

There were some issues of inaudibility after 23:00hrs but any issues raised were promptly and effectively dealt with.

Environmental Health & Safety

No major issues this year, though awaiting report from Mobile Structures regarding the failure in the silent arena tent due to the heavy downpour which resulted in 10 RIDDOR reports **(0 in 2012)**. Water safety throughout the event was well managed this year but the large amounts of mud did cause some issues at the water points.

During egress it was noted that the re designed site layout created two routes to the arena exit of which one route was favoured over the other. Recommended that for future events the site is designed to make a more even split.

A complaint received after the festival in respect of overcrowding in the radio one tent during a performance has been investigated and H& S and the WYF&R Service were satisfied with the structure and exit widths. A meeting between the complainants and the Festival Organisers is to take place.

West Yorkshire Fire & Rescue

No issues with Midland Fire the on-site fire service.

Midland Fire attended 5 incidents (**3 in 2012**) on site.

WYFS assisted Midland Fire with a car fire in the car park on the Saturday evening in supplying extra water. It was noted that when crews were coming onto site there was good direction from security and stewards to ensure a quick response.

Yorkshire Ambulance Service

No comments received from the service.

Medical figures reported by the on-site medical team - 1948 reported cases (**1699 in 2012**). These included:

23 transported to hospital (**9 in 2012**) consisting of 5 burns, 1 dislocated shoulder, 1 chest pains, 2 fittings, 2 fractures, 1 childbirth, 1 gynaecological, 4 diabetic, 1 deep cut, 1 miscarriage, 1 allergic reaction, 1 prescription overdose and 1 death.

Emergency Planning

No issues noted

Trading Standards

2013 was the quietest year so far in regards to unofficial trading and touts, there were no seizures or fixed penalty notices issued during the MARV operation. There was low level monitoring of social network sites and this did not show that touts had moved onto the internet. The whole operation was deemed a success.

Entertainment Licensing

It was noted that some bars were serving individuals that appeared to be intoxicated and it was recommended that regular briefings were undertaken with bar staff throughout the event. Comments and complaints received in respect of the mud and the impact it had on the surrounding area and the City Centre, resulted in a meeting between the Chair of the Licensing Committee, Local Ward Members, Agencies and Mr. Benn in September to discuss the issues and to look at improvements to the Event Management Plan for future events .

The licensing authority received three complaints following the event:

- 1) A complaint from a parent concerning safety in the campsites, suggesting that there was inadequate lighting within the campsites and that the tents should be individually numbered to help people locate their tents. The opinions of the relevant agencies was that the lighting level was adequate but it was suggested that more prominent landmarks and lettered sections of the campsites would help people relocate their tents.
- 2) A complaint from a parent concerning reported overcrowding and safety concerns within one of the marquees (as reported above). H&S and the WYFRS confirm that they were satisfied with the structure and the festival organiser is to meet with the parties concerned to discuss further.

- 3) A complaint from a resident of the A64 who reports of issues with traffic queuing past their property and use of their garden. The festival organiser is liaising direct with the complainant.

Finally a matter concerning traffic congestion at the York Road and the Wattle Syke roundabout on the Monday during departure of the festival traffic was raised by a Local Ward Councillor via the licensing team. These issues arose due to the road conditions and will be addressed in the traffic management plan for 2014.

Report of Head of Licensing and Registration

Report to Licensing Committee

Date: 12 November 2013

Subject: Policy in respect of the immediate suspension of Hackney Carriage and Private Hire Driver Licence

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 Licensing Committee previously received a petition from a representative organisation of some members of the trade requesting restrictions on which occasions the Council suspended a driver licence with immediate effect.
2. Members resolved to reject that petition and asked that guidelines on the use of immediate powers of suspension were prepared for consideration by the Licensing Committee. The City Solicitor prepared that legal guidance which was considered by the Licensing Committee in October 2012. The guidelines were approved by the Members for release to a public consultation exercise.
3. This report draws together the Council's statutory responsibility, legal guidance of the City Solicitor (**Appendix 1**), the result of consultation and an overview of the operational decision making for immediate suspensions throughout 2012/13.
4. The policy presented to the Licensing Committee reflects the procedures already in place but now sets them into the framework of a formal Council policy.

Recommendations

5. That Members remind themselves of the legal advice prepared by the City Solicitor in the guidance document, consider the process undertaken by Officers as set out in the proposed policy and then make any appropriate observations.

6. That Members note the information in this report and direct officers to prepare a report for the consideration of the Executive.

1 Purpose of this report

- 1.1 This report provides information on the process undertaken by Officers in respect of immediate suspension powers for Members to consider and comment on in line with the legal advice received from the City Solicitor, the statutory licensing obligations of the Council, the Council's Safeguarding policy and public safety.

2 Background information

- 2.1 Decisions in respect of the suspension of Hackney Carriage and Private Hire driver licences are passed to an Officer under the Officer Delegation Scheme (Council (Non-Executive) functions).
- 2.2 The law in respect of the suspension of driver licences falls into two distinct categories, "21 day suspensions" and "immediate suspensions". With a 21 day suspension when a notice is served upon the driver he is allowed to continue to drive but must lodge an appeal within 21 days and if he does so he is still able to drive until that matter is fully heard before a Magistrates Court. The legislation changed in 2006 with the introduction of "immediate suspension" which meant that when an 'immediate suspension notice' was served upon a driver he would not be able to lawfully drive a licensed vehicle until the matter had been fully heard by a Magistrates Court.
- 2.3 The whole purpose of this new legislation was because of concerns that serious offenders, alleged offenders or those who might pose a public safety risk were still able to drive licensed vehicles whilst facing serious criminal allegations or presenting other potential risks to the public.
- 2.4 Officers recognise the variation in the severity of incidents presented to them and consider each case on its own merits. The primary consideration has to be the public safety test and in making such decisions, decision makers are not in law allowed to consider the financial impact of their decisions upon the licence holder but may only take account of the public safety consideration although they are very aware of the impact of such decisions.
- 2.5 Decisions to immediately suspend a licence fall into a limited number of categories and what is apparent from the information accompanying the report at **Appendix 3** is that those matters which have been considered have been received from what might be regarded as reliable and trusted sources in the main.
- 2.6 Members will note that some of the reasons for suspension are public complaint or Police Pre-conviction notification for a serious offence. Again, each of these matters is carefully looked at and considered on their own merits and the evidence is often tested by experienced Enforcement Officers as part of a controlled evaluation of the allegation.

3 Main issues

- 3.1 The Authority and the necessity for undertaking such decisions is set out in the guidance of the City Solicitor and it is that path that Officers have followed in their decision making process.

- 3.2 On being made aware of such serious matters or areas of non-compliance to the legislation it is vital that the appropriate public safety decision is taken at the earliest opportunity to minimise risk to the public and to the Council.
- 3.3 It is also important in undertaking such important decisions that Officers are mindful of the impact upon a licence holder and in doing so follow a structured process which has to balance public safety considerations and all of the other issues around such a decision making process.
- 3.4 The procedure undertaken by Officers is set out in the policy document at **Appendix 4** and it is this process that members wish to overview. The matters highlighted at **Appendix 3** have all followed that process route.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 The approved guidance from the City Solicitor and Licensing Committee report has been open to public and trade consultation for a 3 month period and the comments received and Officer responses are at **Appendix 5**.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 No impact upon the public and any individual licensed driver issues are addressed during an investigation process.

4.3 Council policies and City Priorities

- 4.3.1 The Taxi & Private Hire Licensing policies create the principles the Council will use to exercise its functions, mainly under the Local Government (Miscellaneous Provisions) Act 1976, but also under other associated Acts of Parliament. Applicants for licences are expected to read the policy before making their application and the Council will refer to the policy when making its decisions.
- 4.3.2 The Taxi & Private Hire Licensing policies contribute to the following aims:

By 2030, Leeds will be fair, open and welcoming

- Local people will have the power to make decisions that affect them
- There is a culture of responsibility, respect for each other and the environment
- Our services meet the diverse needs of our changing population
- Everyone is proud to live and work

- 4.3.3 The Taxi & Private Hire Licensing policies contribute to the following city priorities:

Best city ... for communities

- Reduce crime levels and their impact across Leeds
- Effectively tackle and reduce anti-social behaviour in communities

4.4 Resources and value for money

4.4.1 There are no financial implications for the Section, the policy just formalises the procedures.

4.5 Legal Implications, Access to Information and Call In

4.5.1 Members need to be aware that the responsibility of the Council to maintain a statutory 'fit and proper' person assessment under the Local Government (Miscellaneous Provisions) Act, 1976, has been considerably enhanced in recent years by 'safeguarding' issues.

4.6 Risk Management

4.6.1 There is no financial risk to the Council. Each case is treated on its own merits and the procedure is well practised and supported by the Courts.

5 Conclusions

5.1 The policy proposal is in fact putting into writing the practice and procedure which has been in use for the past 5 years and which accords with the advice of the City Solicitor as agreed by Members.

5.2 The power is exercised in accordance with the Scheme of Delegation to Authorised Officers who are appropriately trained, experienced and of seniority. The procedure has not been criticised by the Courts or legally challenged.

6 Recommendations

6.1 That Members remind themselves of the legal advice prepared by the City Solicitor in the guidance document, consider the process undertaken by Officers as set out in the policy and then make any appropriate observations.

6.2 That Members note the information in this report and direct officers to prepare a report for the consideration of the Executive.

7 Background documents¹

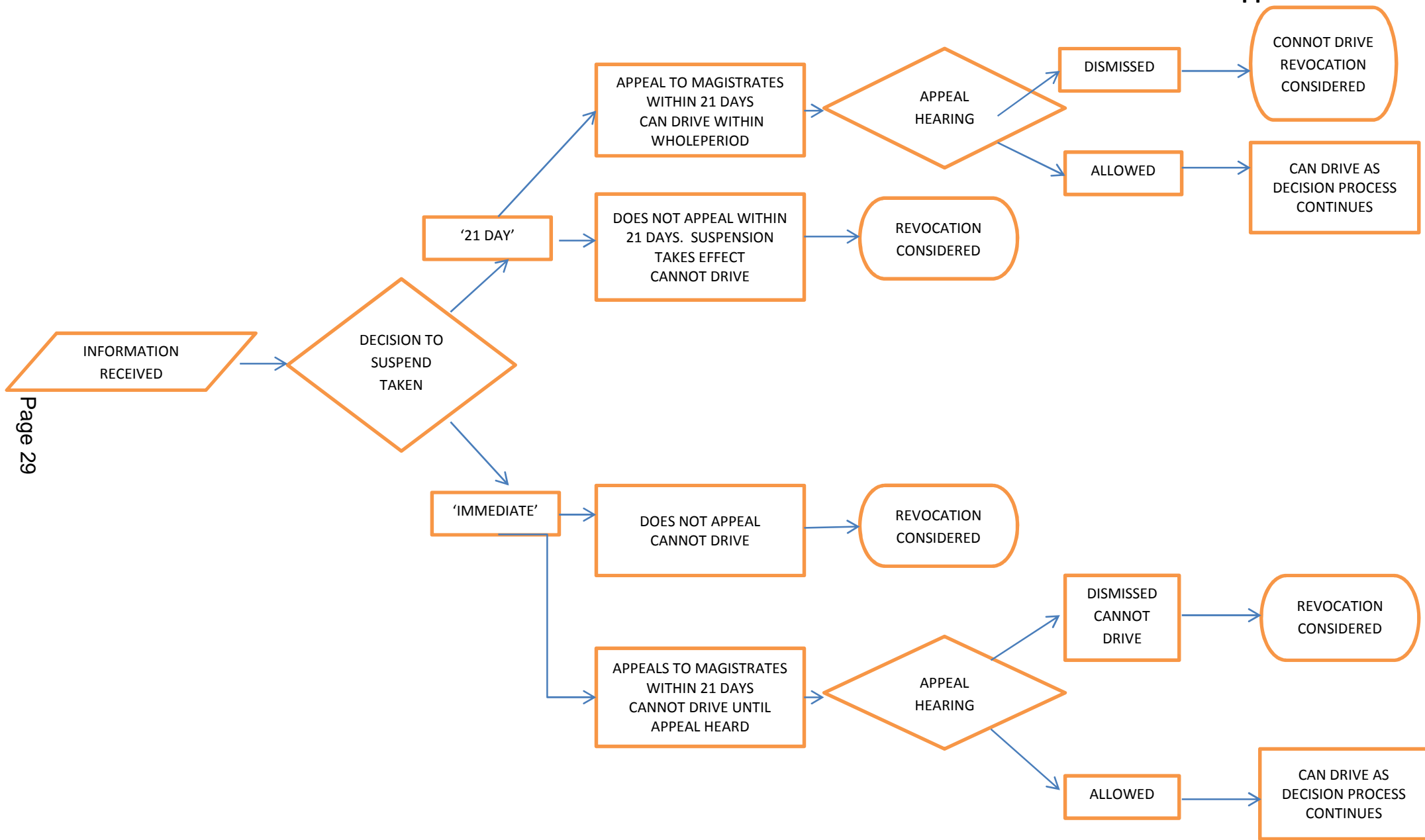
7.1 Road Safety Act 2006

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

This page is intentionally left blank

SUSPENSION FLOWCHART

Appendix 2



This page is intentionally left blank

Immediate suspensions and reasons for suspension
Disqualified from driving, totting up
Disqualified from driving, 6mth
Disqualified from driving 14 months, Over prescribed limit
Disqualified from driving
Disqualified - Failure to Provide Specimen
Disqualified from driving - 14 points on DVLA licence
Plying for Hire/no insurance
Plying for Hire/no insurance & Inappropriate behaviour
Plying for Hire/no insurance
Plying for Hire/no insurance
Plying for Hire/no insurance
Plying for Hire/no insurance
Plying for Hire/no insurance
Plying for Hire/no insurance
Plying for Hire/no insurance
Plying for Hire/no insurance
Plying for Hire/no insurance
Medical Issues
Medical Issues
Medical Issues
Medical Issues
Inappropriate Behaviour
Inappropriate Behaviour
Inappropriate Behaviour
Inappropriate Behaviour
Police Disclosure- arrested for Robbery & Kidnap
Police Disclosure - arrested for Rape
Police Disclosure - Charged with sexual offence
Police Disclosure - Charged with sexual offence
Police Disclosure - Charged with sexual offence
Police Disclosure - Charged with sexual offence
Police Disclosure - arrested for supplying drugs
Border Agency - No right to work

21 day suspensions and reason for suspension
Failure to report in line with conditions
Failure to report in line with conditions
Conviction for possession of a knife and criminal damage
Conviction for drugs related offences
Perverting the Course of Justice
Conviction for Fraud
Police disclosure, sexual assault on male
Drugs caution for possession of cannabis
Drugs caution for possession of cannabis
Drugs caution for possession of cannabis
Outside Council policy on motoring convictions - 13 points on DVLA licence
Outside Council policy on motoring convictions - 14 points on DVLA licence
Disqualified from driving - 'totting up'

This page is intentionally left blank



Draft: Policy on Immediate Suspension and Revocation Decisions

Taxi and Private Hire Licensing

Background information

The purpose of this policy is to give guidance to Officers and set out a clear procedure for them to follow and one which can be understood and supported by the Courts, Elected members, the public and the Hackney Carriage and private hire trades.

The policy is based upon primary legislation contained within the Local Government (Miscellaneous Provisions) Act, 1976 and the Road Safety Act 2006. The purpose of the former being that of creating a safe licensing regime and the latter being to emphasise the change to a safety priority, putting public safety first in ensuring that those drivers who may present a danger to the public cannot take advantage of previous legislation by continuing to transport the public until there is a hearing before the Magistrate's Court.

Because of the impact on a licensed driver, the decision to issue an immediate suspension notice should not be taken lightly and each of the following steps in this policy guidance document should be followed.

Operational and administration policy

Where an allegation or information is received about a licensed driver, and is of such a nature that a real and reasonable concern is raised in terms of public safety or crime and disorder about the suitability of a licensed driver to continue to hold a Local Authority driver licence for the time being, then consideration should be given to the suspension of that licence.

Only on those drivers who have;

- committed a serious offence
- are alleged to have committed a serious offence
- are in breach of the requirements placed upon that type of licence within primary legislation
- are in conflict with a significant part of the Council's safety policy or
- where there is intelligence provided which raises a significant concern and it is necessary to immediately remove that potential risk

Should an immediate suspension be imposed.

Officers are referred to the guidance on immediate suspension and revocation considerations prepared by the City Solicitor at an Appendix to this policy.

Proportionality

Proportionality means relating the enforcement action to the potential risk posed. Any action taken by Officers to reduce the perceived risk to public safety will be proportionate to the seriousness of any conviction, allegation, intelligence or breach of policy. Such convictions, allegations, intelligence or breaches could be indicative of a serious risk to service users or the Council. The decision to suspend with immediate effect must be proportionate to the potential risk posed and the seriousness of any offence, allegation or breach of licensing policy.

Openness

Explaining to the licence holder what is alleged and the reason the Council is taking the decision to impose an immediate suspension is a very important feature which enables the licence holder to exercise their rights and understand exactly what the Council is thinking. At the first opportunity, and in accordance with any legal requirement, the detail of the allegation and the reasons why an immediate suspension is being imposed should be set out in writing and in plain English to the licence holder. In many circumstances the licence holder would be invited for a formal interview prior to such a decision being taken.

Consistency

Consistency of approach does not mean uniformity, it means taking a similar approach in similar circumstances to achieve a balance public safety viewpoint but also taking each case on its own merits and demonstrating the difficult balance of public safety and fairness to the driver has been taken into account.

The Courts, individuals, the public and the Council have the right to expect consistency in the use of enforcement decisions. Officers need to take into account many variables including the potential impact upon public safety, the risk to the licensing objectives, the effect of any non-compliance on others and possibly the history of previous incidents. Decisions are a matter of professional judgement and the Officer must exercise both consistency and discretion.

Officers are only allowed to make such decisions when they are an AUTHORISED OFFICER of the Council and that their training or seniority is in line with the Councils constitution in respect of decision making.

Accountability

Both the Council and Officers may be accountable for making decisions that are unfair or not compliant with the legislation and it is important that serious consideration is given before taking such a decision and the reason for taking that decision are set out to the licence holder. As part of that accountability the section reports directly to the Licensing Committee in presenting its half yearly report on delegated decisions.

Operational Review

When an immediate suspension takes place it should normally be discussed with the Enforcement Officer's line manager (Principal Enforcement Officer) and approved beforehand. It is recognised that this is not always possible in the operational field but any such action taken should be discussed at the earliest opportunity with a Principal Enforcement Officer and reviewed. Circumstances can change and changing a decision is a natural part of a review process and not necessarily indicative of a wrong decision.

It is important that those decisions which can safely be taken to restore the licence are taken at the earliest opportunity and it is the duty of Officers to review any significant change of information at an early stage and to produce the case to their line manager for review. Where the matter is undergoing a criminal court process or Magistrates appeals process, and therefore wholly out of the Council's hands, it should be reviewed at no more than a maximum of two monthly intervals to determine if there has been any change in the circumstances

Where the matter is not subject to a Court process (criminal or appeal) that review process should be undertaken at no more than two monthly intervals from the date of suspension by a Principal Officer or a Principle Officer's line manager, ensuring that all reasonable progress is being made on the investigation.

To ensure review dates are not overlooked, the licensing database should be used to 'flag up' those events to the investigating Officer/ Principal Enforcement Officer. The investigating officer is responsible for setting the review period alerts.

Appendix 1 - GUIDANCE ON IMMEDIATE SUSPENSION AND REVOCATION

Legislation

Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 provides that the Council may suspend or revoke or refuse to renew the licence of a driver of a hackney carriage or private hire vehicle on any of the following grounds.

(a) That he has since the grant of the licence

- (i) Been convicted of an offence involving dishonesty, indecency or violence; or
- (ii) Been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this part of this of this Act; or

(B) Any other reasonable cause.

Section 61(2) goes on to provide that a suspension or revocation normally takes effect at the end of the period of 21 days beginning on the day on which notice is given to the driver but;

If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice give to the driver includes the statement that this is so and an explanation why then the suspension or revocation takes immediate effect when the notice is given.

These provisions (setting out when the decision takes effect) were inserted by the Road Safety Act 2006.

Guidance on decision making – Suspensions and Revocations generally

Section 61 requires the licensing authority to make a finding on the balance of probabilities that that the grounds set out in the legislation are made out.

In Section 61(1)(a)(i) the offence in question must *involve* dishonesty, indecency or violence. Dishonesty, indecency or violence must be part of the commission of the criminal offence for this subsection to apply but it is not necessary for the offence to be one of dishonesty, indecency or violence.

Section 61(1)(b) allows suspension or revocation (or refusal to renew) for any other reasonable cause. No further definition is give of reasonable cause within the legislation and ultimately the question is a matter for the discretion of the decision maker.

Guidance is given in a number of cases from which the following principles can be drawn.

- The decision maker is entitled to take into account hearsay evidence.¹
- The fact that no criminal case is pursued against the driver is a relevant factor that can be outweighed by other evidence.²
- The burden of proof is on the applicant to establish that he is a fit and proper person to hold the licence.³
- Once the driver has established a case that he is a fit and proper person, the evidential burden shifts to the Local Authority to rebut the case put forward by the driver. Rebuttal does not require the decision maker to prove that a person is not a fit and proper person and nor does pursuing that argument amount to double jeopardy.
- They would not have good reason to question or doubt the applicant's case if the evidence amounts to assertions shown to be ill founded gossip or rumour or for any other evidence which a reasonable and fair minded decision maker acting in good faith with proper regard to the interests of the public and the applicant would not think it right to rely on.⁴

The discretion under this Section is wide and is not restricted to convictions for criminal offences nor is proof required to the criminal standard.

The taxi licensing regime is clearly and expressly in place to protect members of the public travelling in taxi and private hire vehicles.

There are issues which undermine that protection which amount to criminal offences in their own right but there are other issues which have significance for the protection of the travelling public where a criminal offence might not have been committed or proved.

Immediate suspension or revocation

Both standard and immediate suspensions require the decision maker to consider the same matters, i.e. whether there has been a relevant conviction or "any other reasonable cause".

A suspension or revocation can only take immediate effect *in the interests of public safety* there must be an additional consideration. That means the decision maker should consider whether there is a clear connection between the incidents alleged and the safety of the travelling public which justifies taking this additional step, given that it can deprive a driver of his livelihood pending an appeal.

1. McCool v Rushcliffe Borough Council (1998)
2. McCool v Rushcliffe Borough Council (1998)
3. R v Maidstone Crown Court ex parte Olson (1992)
4. McCool v Rushcliffe Borough Council (1998)

However there are no further limits or restrictions on the decision maker's exercise of judgment or discretion providing a proper judgment is made weighing up the evidence available.

There is no requirement in the legislation limiting this power to cases where there has been a conviction for a criminal offence nor that any alleged incident or offence is 'serious'.

The decision must be taken in the interests of public safety and should be fair, reasonable, proportionate and in accordance with human rights and natural justice principles.

The Council has a published policy relating to new applications for drivers licences by those with criminal convictions. That policy allocates points to convictions in terms of their seriousness and how long ago the convictions occurred. The council will have regard to that policy when considering whether an offence, allegation or complaint should be considered as warranting immediate suspension in the public interest. This will be judged against all the circumstances of the case, including any admissions or denials made and any other relevant evidence.

Examples of situations where immediate suspension or revocation might be warranted include:

- Allegations of violence against a passenger or person wishing to travel.
- Allegations of indecency including sexual assault and rape against a passenger or person wishing to travel.
- Allegations that the driver is unfit to drive as a result of being under the influence of drugs or alcohol.
- Admitted sexual contact with a passenger in the vehicle
- Allegations of dishonesty relating to use of the vehicle such as attempting to pervert the course of justice in relation to a road traffic accident, fraudulent use of tax or insurance documentation, knowingly driving an uninsured vehicle to convey members of the travelling public (e.g. plying for hire).
- Allegations of dangerous driving or driving without due care and attention thereby endangering the safety of passengers and other road users

Each case must be decided on its own facts and any examples given in this guidance are only illustrative. Each case must be considered on its own merits and the powers should be exercised in a consistent and reasonable manner having regard to the facts of the case and the risk posed to the public.

Any decision to suspend or revoke a licence should never be taken lightly. However, the licensing system is designed to protect the public and it would be wrong not to suspend or revoke where such course of action is clearly appropriate on the facts of an individual case. If there is any doubt whatsoever as to the driver's suitability to hold a licence as a fit and proper person serious consideration must be given to refusal, revocation or suspension.

Taxi and Private Hire Licensing

225 York Road

Leeds

LS9 7RY

Tel: 0113 3781570

Email: taxiprivatehire.licensing@leeds.gov.uk

www.leeds.gov.uk/taxis

Section Opening Hours

Monday - Thursday	08.00 - 15.30
Friday	08.00 - 15.00
Staff Training	2nd Tuesday in every month 08.00 - 10.00



Leeds
CITY COUNCIL

This draft guidance published October 2013

Immediate Suspension Consultation: Email Responses

Response From:	Response Details:	Officer Response:	Change to policy:
<p>Licensed driver</p>	<p>Dear Honourable Licensing Committee Members,</p> <p>On the 18th of January 2013 I was sent an email about a consultation of the powers an enforcement officer should have to suspend a license of a private hire driver.</p> <p>I am now going to put forward to yourselves the reasons why I think it is not feasible to suspend a drivers license immediately.</p> <ul style="list-style-type: none"> In the guidelines report attachment sent to me in point number 4.5 and 4.5.1 it says Legal implications, access to information and Call in. Then “No Implications”. How is this even possible? One of the most fundamental Laws in which the Crown Prosecution Service and HER MAJESTY’S COURT SERVICE is based upon is the presumption that the defendant is “INNOCENT UNTIL PROVEN GUILTY”. This principle requires that the 	<p>This is a misunderstanding of the Councils constitution by the resposdee. Such decisions are not subject to ‘call in’.</p> <p>The key issue is public safety. Serious consideration is given to the supporting evidence and decisions are reviewed by more senior</p>	

	<p>government to prove the guilt of a defendant and relieves the defendant of any burden to prove his or her innocence. Taking this basic right away from us a direct violation of the basic principles of Law and our human rights. So there are legal implications that really need to be considered here before suspending a driver.</p> <ul style="list-style-type: none"> Guidelines report 2.3 states that “a suspension or revocation did not take effect for 21 days”. However private hire badge number XXXX was stripped of his car stickers immediately for suspected plying for hire & was not allowed to work. 21 days later he was sent a letter that he is now suspended. Clear indication that enforcement officers have not been using their powers as they are 	<p>Officers and the Courts. (Please refer to Licensing Committee report of 13.8.13) Although not an ideal analogy, even in the criminal law restrictive personal constraints can be imposed prior to trial in the form of “The Bail Act”. Perhaps more importantly the legislation particularly enables this, putting public safety considerations first</p> <p>This is the subject of a separate information report.</p>	
--	---	--	--

	<p>supposed to. Surely he should have been allowed to work.</p> <ul style="list-style-type: none"> I can understand it would be necessary to suspend a driver's licence immediately if he committed an act of indecency or a criminal offence. <p>However for the offence of plying for hire sometimes when picking up passengers it is quite easy to pick up the wrong passengers as there can be a lot of people concentrated in one area because of demand and the amount of noise being generated. The operator might have heard the wrong name over the phone and some people especially students might want to go to a similar destination i.e. Headingley. Taking all this evidence into consideration it is actually quite easy to pick up a non allocated fare without realising and then have your license suspended.</p> <ul style="list-style-type: none"> If an enforcement officer is going to suspend a driver it 	<p>There is some conflict with the response in respect of the first bullet point and this remark, but I think the travelling public would probably agree with the need to take such action in accordance with this part of the safety policy.</p> <p>It should not be "easy" to pick up the wrong person but the account of such possibilities are considered, roadside, at the point of test purchase or other activity.</p> <p>Officers do confer but the decision is taken by an</p>	
--	--	---	--

	<p>should be signed off by two enforcement officers (as well as another senior officer at a later date) giving a written letter with signatures of the officers as to why the driver is being suspended immediately. Making sure of no alleged foul play in the powers vested in the enforcement officers and also knowing who is responsible if any evidence does come to light.</p> <ul style="list-style-type: none"> • Issue 17 of the recent news letter page 12 of 14 at the bottom of the page has stated “Please ensure that you carry spare bulbs with you to avoid being suspended or fined for any of your vehicle lights out”. Please could Leeds licensing and registration elucidate to us in the next upcoming newsletter all the different reasons they can come up with of suspending or revoking a driver’s license as I believe it a step too far to suspend someone if a tail light is out and head lights are not easy to 	<p>individual Officer within the terms of the Scheme of Delegation.</p> <p>I have not seen any evidence of such activity other than ‘rectification notices’ for individual bulbs not working. I think it is sound advice and would actively support a decision to suspend a vehicle if it had any of the following:-</p> <ul style="list-style-type: none"> • No head lights • No tail lights • No break lights • No indicator lights <p>Nobody wants a driver to lose money but the</p>	
--	---	--	--

	<p>replace in the light of the night as some vehicles require complete removal of a headlight unit so the bulb can be replaced.</p> <ul style="list-style-type: none"> • It has also come to our attention that once the Law courts have given the necessary sentence for a driver and cleared the driver. Leeds licensing and registration have deliberately taken a long time to reinstate the driver's license. Particularly driver number XXXX who was convicted for the offence of plying for hire and no insurance and ordered to pay £265. (Approximately December 2010 and January 2011). It took Leeds Licensing & Registration another six months to decide whether or not to reinstate his PH license. We believe strict timescales should be put in place to stop this unnecessary and deliberate action. This power should solely be vested and exercised by HER MAJESTY'S COURT SERVICE. As no 	<p>greater issue is public safety.</p> <p>Policy dictates such periods and is a matter out of the scope of the Courts unless they direct a certain period of time.</p>	
--	---	--	--

	<p>individual and no organisation is above The Law.</p> <ul style="list-style-type: none"> • Strict timescales should also be put into place to take the driver to court as it took Leeds Licensing and Registration almost 6 months to take driver XXXX to court from the date of the offence which was 5th of December, 2009. <p>I hope you have found all the comments helpful and will help you in making the enforcement of drivers plying for hire a more smoother affair</p>	<p>Please see preceding remarks in respect of this issue.</p>	
<p>Licensed driver</p>	<p>In the past it has been done often that a licence has been revoked immediately without any investigation from the department This effects the licensee to a great effect not being able to earn a living which is the only source of income for many who are Private Hire or Hackney carriage drivers and the case been put on the back burner It happens that a case is dropped after months and the licence re issued I suggest that a panel to be formed with independent assessors to</p>	<p>We are unaware of any such case.</p> <p>See previous responses.</p>	

	<p>look at any case of long term suspension This should not be done by a individual officer I hope this proposal is put forward into the consultation process</p>		
<p>Eurocabs</p>	<p>The present system of allowing VLE Officers to use their delegated powers to make decisions to suspend or revoke licences must be changed.</p> <p>This system is too reliant on the knowledge of the VLE Officers, Legal Officers and the honesty and integrity of the officers making the final decision.</p> <p>There have been cases recently and in the past where VLE officers have given incorrect advice or made incorrect decisions due to having lack of experience or knowledge, as the officers are generally ex-police officers with little or no working experience of the Taxi and Private Hire industry.</p> <p>The present system is unfair on the low to middle class members of both the Hackney carriage and Private Hire industry, as they will not have the money or will power to risk their hard</p>	<p>Officers are recruited in line with a formal policy.</p> <p>Refer to Licensing Committee decision of March 2012.</p>	

	<p>earned money by taking their complaint to the magistrate's court to appeal against a decision taken by VLE officers. All Taxi and Private Hire drivers do not claim benefits so the majority of drivers would not qualify for the reduction in the court fees needed to lodge an appeal.</p> <p>A Licensing Regulatory Panel is used by nearly all the Licensing Authorities in England and especially our neighbouring Councils must be put back in place to deal with all complaints ranging from Licence application refusals, Licence suspensions and revocation issues, complaints about the Licensing Department and its officers. Leeds City Council is one of the very few councils that give the enforcement department full powers under the delegated powers systems to make all suspension, revocation and licence application refusal decisions.</p> <p>This system gives everyone that feels aggrieved by a decision taken by the VLE Officers or the VLE Department the opportunity to have their voice heard without having to pay huge fees</p>	<p>Subject to previous report in March 2012.</p> <p>These arguments were fully explored by the Licensing Committee and determined to retain the working procedure</p>	
--	---	---	--

	<p>to the magistrate’s court. If the complainant or the accused is not satisfied with the Licensing Regulatory Panels decision then they still have the right to appeal to the Magistrates court. The case will be presented to the Magistrates by the enforcement officers as a “de novo” i.e. a complete fresh hearing with all the evidence presented to the magistrates including a report from the Licencing Regulatory Panel outlining their reasons for the decision taken. It is very rare and only in extreme cases where the Licensing Regulatory Panel chair or members are called to the Magistrates court to give evidence in a case.</p> <p>Some decisions that have led to court cases where incorrect decisions have been made by VLE Officers could have been avoided if they had been properly discussed and debated, e.g. the list of preferred/approved NVQ/VRQ training providers and refusal to accept certificates issued by other qualified, regulated and approved training providers. There are other cases and some are still pending.</p>	<p>Insufficient information to provide a response but in any event the issue seems to refer to a totally unrelated policy.</p>	
--	---	--	--

	<p>The money being used to pay for these cases is from the Hackney Carriage and Private Hire Licence fee payers, and this money could be better used to promote a better understanding between the trades, the VLE and the Licencing Committee members by having a Licensing Regulatory Panel to deal with all the issues.</p> <p>This type of committee will enable all issues and policies to be properly discussed and debated before decisions are made that could have far reaching effect on the livelihood and wellbeing of many members of the Hackney Carriage and the Private Hire trade members their families and their children.</p> <p><u>THE LICENSING COMMITTEE</u> The present decision and policy making system is unfair and undemocratic and must be changed, policies are not being robustly consulted or robustly debated on before they are being approved and implemented on the Hackney carriage and Private Hire Companies.</p>	<p>It seems to be overlooked that the decisions made by Officers are entirely on the basis of policy or statutory requirements and that the policies have gone through a rigorous consultation and review program.</p> <p>Please refer to previous responses.</p>	
--	---	---	--

	<p>The Licensing Committee need to be involved in the consultation and the debates to enable them to fully understand the issues and the impact of the policy or proposals being presented to them to make a decision.</p> <p>The previous policy of co-opting a trade representative, union representatives or any other member of the trades wanting to take part in any discussion or debate must be re-instated, and this should include the final day when the Licensing Committee are due to make the decision to approve or dis-approve a policy.</p> <p>The Licensing Committee members have very limited knowledge of the Taxi and Private Hire Industry and at present rely on the professionalism of the report, honesty and integrity of the VLE Officers and their policies or proposals.</p> <p>May be that councillors have full confidence in the professionalism, honesty and integrity of the VLE officers, if that is the case this can be termed as having blind faith. May be</p>	<p>It is felt that the following points are repeated and best handled by Members at Licensing Committee.</p>	
--	--	--	--

	<p>they have excellent knowledge and experience of the taxi and private hire industry? I know this isn't true as one of the councillors after my presentation (certain members including the legal officers objected to me being allowed to speak which I found very odd!!) about WAV types on the 15th of January 2013 made a remark "this low volume and whole type approval don't make any sense to me" I admire the councillor for his honesty but the fact is that all the councillors should have been made aware of the different types of vehicles as they had just approved a policy on the vehicle conditions. What happens when people have this blind faith then they need to look no further than on our own doorstep, namely Sir Jimmy Saville, the Hillsborough disaster and the issues with Sir Norman Bettison.</p> <p>The questions that came to my mind on the 15th of January 2013 were, am I in meeting room with democratically elected councillors? Are these democratically elected councillors making policies in a democratic manner or in dictatorial manner? Were the policies to be decided not related</p>		
--	--	--	--

	<p>to the Hackney Carriage trade hence councillors and legal officers objecting to me speaking? Or has there been an approved policy between the licensing committee, VLE and the Hackney Carriage and Private Hire trades to not allow anyone other than the councillors to speak.</p> <p>The system being used presently consists of VLE officers conducting meetings with trade representatives when THEY see fit, these are planned regularly but not held on a regular basis and only recently have minutes been taken of these meetings and given to trade members (Not in advance but at the meeting only). The outcome as seen by VLE Officers and the summary of any consultation is then used as a basis of the policy report presented to councillors for a decision.</p> <p>The information supplied for consultations is presented in a manner that VLE officers feel is appropriate to their views or agenda, which may be totally different to what has been discussed at the trade meetings and may be from within the</p>	<p>Notes are taken and circulated to the trade and appear on the Council's website. The minutes are agreed by the trade representatives, including the representatives from Eurocabs.</p>	
--	--	---	--

	<p>consultation and has not been fully discussed and debated with the trades.</p> <p>So by denying any trade representatives the right to speak or air their opinions or concerns about any policy then the policy is being dictated to the trades by VLE and approved by the Licensing Committee. This policy would then be a flawed policy as a robust debate and a robust consultation on the actual proposed policy has not been carried. The councillors are not being given the full information about the pros and cons of each policy before they are being asked to make a decision.</p> <p>I hope my views will be given full considerations for this consultation on how decisions are made on policies, licence suspension and licence revocation.</p>		
City Cabs	<p>We have carefully read and considered the aforementioned Consultation document 'Guidance on Immediate Suspension and Revocation of Licences ', and in our opinion it takes into no account, if an</p>	<p>Many of the following remarks are distinctly similar to previous comments and I refer to the previous responses.</p>	

	<p>individual is innocent and effects of this it would have on the loss of income suffered as a result of suspension and not foregoing the stigma/negative publicity attached in the unlikely scenario of a vendetta, accusations of physical/sexual assault by individuals or even over zealous officials (too much power/control in one departments hand).</p> <p>You will appreciate, we cannot accept draconian regulations/measures for a few who may have allegedly committed or even accused of these heinous offences to the masses and then enforce this with a blanket policy whereby the effects would have an enormous impact on family lives of those effected.</p> <p>We are aware of real life situations whereby drunken revellers on a weekend have tried all sorts of tricks in the trade to get out of paying for their journey home, even as far as accusing the vulnerable driver, I am ashamed to say, of sexual assaults. This is the grim reality of the society we live in I'm afraid however, I am not against pursuing those who commit</p>		
--	--	--	--

	<p>these heinous offenses once a proper judicial process has been followed.</p> <p>It is extremely worrying to see a great City of ours bring in dictatorial and somewhat knee jerk policies without considering the core values of our nation 'you are innocent until proven guilty' and should not be down to an individual/departments interpretation of someone's guilt.</p> <p>These are some of the questions, which we are still waiting for answers on;</p> <p>What happens when the individual is proven innocent?</p> <p>Will they be compensated by the City for losses incurred?</p> <p>Will they receive an apology for being found guilty by the officers/department without proper judicial processes?</p> <p>Does this not violate his human rights to a fair trial and not to be judged without proper representation?</p> <p>I think we could carry on with this</p>		
--	--	--	--

	<p>forever in time.</p> <p>I hope common sense prevails and our opinions are taken seriously, we also hope we can work on this further before it's put to the Licensing Committee for approval.</p>		
--	---	--	--

This page is intentionally left blank

Report of **Chief Officer (Elections, Licensing and Registration)**

Report to **Licensing Committee**

Date: **12 November 2013**

Subject: **Petition by Hackney Carriage Proprietors and Drivers**

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. A petition has been submitted on 15 October 2013 by the Alpha Hire and Hackney Welfare Society on behalf of hackney carriage proprietors and drivers. There are 134 verified signatories on the petition. The Taxi and Private Hire Licensing Section has verified the petition against their records of currently licensed hackney carriage proprietors and drivers in Leeds.
2. The petition asks Members to consider the following three issues: -
 - a. Increase of the current vehicle age criteria to 12 years;
 - b. Review of Policy for the Transfer of a Hackney Carriage Proprietor's Licence on the Death of the Proprietor; and
 - c. Request to Introduce a new Hackney Carriage Tariff for 5, 6 and 7 seated vehicles

Recommendations

3. That Members consider the contents of the petition and decide how each issue will be considered and responded to.

1 Purpose of this report

- 1.1 To inform Members of the contents of the petition to determine how each issue will be considered and responded to.

2 Background information

- 2.1 The petition was received on 15 October 2013 and is available as a background document. A copy of the covering letter from the Alpha Hire and Hackney Welfare Society is included at Appendix A.
- 2.2 There are 134 verified signatories on the petition. The Taxi and Private Hire Licensing Section has verified the petition against their records of currently licensed hackney carriage proprietors and drivers in Leeds.

3 Main issues

- 3.1 The petition asks the Licensing Committee to consider three issues: -

Increase of the current vehicle age criteria

- 3.2 The petition states, "Restriction of Age Limit of Taxi Vehicle should be lifted up to the age of 12 years from 8 years as this would save the planet from excess use of energy needed to create a new vehicle. A fraction of energy is used to create spare parts for the vehicle as long as vehicle complies with vosa's standards and the standards set by Ministry of Transport hence Parliament. Examples are given to Help the Licensing Panel to look at other cities in the U.K Sheffield, Manchester and Birmingham."
- 3.3 Members will remember that they considered this policy in January 2013 as part of phase 2 of the review of all taxi and private hire policies. At that time the Licensing Committee decided to retain the current vehicle age criteria at 7 years. The minute on this particular issue resolved:-

"That a further period of vehicle profiling be carried out with the results intended to inform a review of the vehicle age criteria in 2016, noting that a review of the entire vehicle fleet would take 3 years."

- 3.4 Officers are currently organising the requested review of the hackney carriage and private hire fleet and anticipate that a report back to committee will be made in mid-2016 as Members requested.

Transfer of a Hackney Carriage Proprietor's Licence on the Death of the Proprietor

- 3.5 The petition states, "Changes on proprietorship policy are discriminatory and malice. "Fit and Proper" if the Spouse CRB has No convictions then they should not be discriminated when the husband dies."
- 3.6 Officers believe the petitioners may have misunderstood the current policy. Looking at the background document, where individuals have signed the petition it

clearly states that they want to keep the existing transfer policy. The existing policy agreed by Members of the Licensing and Regulatory Panel in February 2006 requires the surviving spouse to pass an English literacy test in addition to carrying out a DBS disclosure. Officers suspect the petitioners believe that the English literacy test is a new proposal rather than the existing policy.

- 3.7 Members will recall that the Licensing Committee have established a working group to review this current policy and determine any changes in response to other representations made by some Ward Councillors and hackney carriage trade representatives. The working group is due to report back to committee with its findings and recommendations in the New Year after it has completed its consultation with the trade.

Introduce a new Hackney Carriage Tariff for 5, 6 and 7 seated vehicles

- 3.8 The petition states, "Fare change of 5,6 and 7 seater Hackney Taxi. Request to be made to investigate a fare change on 5,6 and 7 seater Taxis. Please find 1 example of many that is given. Borough of Chorley (see attached documents)."
- 3.9 The example tariff from Borough of Chorley is included with the background documents.
- 3.10 Requests for hackney carriage tariff changes are submitted by the Hackney Carriage trade representatives through the council's Hackney Carriage Trade Forum. There is a process prescribed by legislation for advertising such a request including a public notice where representations are invited before a final decision is taken. Any new tariff also has to comply with the programming requirements of the tariff meters used in vehicles.
- 3.11 The Hackney Carriage Representatives who attend the forum have not made a request to increase the hackney carriage tariff in this manner. The Alpha Hire and Hackney Welfare Society have not requested to represent their members on the Trade Forum and so do not attend those meetings.
- 3.12 The next meeting of the Hackney Carriage Trade Forum is currently being arranged during November 2013. A representative from the Alpha Hire and Hackney Welfare Society could be invited to attend the meeting. They could then put their proposals for an increase to the tariff to the other hackney carriage trade representatives for discussion.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Any changes to taxi and private hire policy would require to be fully consulted upon before any final decision is taken.
- 4.1.2 There is a legislative requirement to advertise any proposed changes to the hackney carriage tariff and consider any public representations before a final decision is taken.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 Any proposed changes to taxi and private hire policy will require an Equality Screening to be completed before public consultation is commenced.

4.2.2 An Equality Screening will also be required before any increase to the hackney carriage tariff can be considered.

4.3 Council policies and City Priorities

4.3.1 The licensing function contributes to the following council aims: -

Best Council Plan 2013 -17

Towards being an Enterprising Council

Our Ambition and Approach

Our Ambition is for Leeds to be the best city and Leeds City Council to be the best council in the UK – fair, open and welcoming with an economy that is both prosperous and sustainable so all our communities are successful.

Our Approach is to adopt a new leadership style of civic enterprise, where the council becomes more enterprising, business and partners become more civic, and citizens become more actively engaged in the work of the city.

Our Best Council Outcomes

Make it easier for people to do business with us.

Our Best Council Objectives

Promoting sustainable and inclusive economic growth – Improving the economic wellbeing of local people and businesses. With a focus on: -

- Helping people into jobs;
- Boosting the local economy; and
- Generating income for the council

Ensuring high quality public services – improving quality, efficiency and involving people in shaping their city. With a focus on: -

- Getting services right first time; and
- Improving customer satisfaction

4.3.2 Licensing policies contribute to the following city priorities: -

- Reduce crime levels and their impact across Leeds; and
- Effectively tackle and reduce anti-social behaviour in communities

4.4 Resources and value for money

4.4.1 There are no resource or value for money issues associated with this petition

4.5 Legal Implications, Access to Information and Call In

4.5.1 There are no issues to consider.

4.6 Risk Management

4.6.1 Any risks would be considered before any policy change or new hackney carriage tariff is introduced.

5 Conclusions

5.1 The first two issues raised in the petition have already been considered by Members and are due to return to the Licensing Committee in due course for a decision. Comments made by the petitioners can be considered as part of the consultation process for those issues.

5.2 The final issue regarding the proposed increase for the hackney carriage tariff could be discussed with other hackney carriage trade representatives at the council's next Trade Forum meeting so that a comprehensive trade opinion can be established.

6 Recommendations

6.3 That Members consider the contents of the petition and decide how each issue will be considered and responded to.

7 Background documents¹

7.1 Petition submitted by the Alpha Hire and Hackney Welfare Society from hackney carriage proprietors and drivers on 15 October 2013.

Appendix

A. Alpha Hire and Hackney Welfare Society's covering letter dated 15 October 2013

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.



Alpha Hire & Hackney Welfare Society
Loods Media Centre
21 Saville Mount,
Loods L57 3HZ
Mobile: 0758 57 57 167
Email: alphasirandhackney@gmail.com

36

To: Mr Tom Tom Riordan;
Chief Executive
Leeds City Council

Own Ref: 0.07

Your Ref:

Date: 15/10/13

Dear Sirs, om Tom Riordan

Re: Petition

I write with regards to the Petition which have been addressed and signed individually by Hackney Taxi Proprietors and Drivers who would need a reply back individually from your self.

The back ground is that the Bullet points in the petition needs investigating by the Licensing panel and needs to be in line with other Councils around in the UK. The investigation needs to be done by the Elected Councillors and Not by the Licensing officer's.

- Restriction of Age Limit of Taxi Vehicle should be lifted up to the age of 12 years from 8 years as this would save the planet from excess use of energy needed to create a new vehicle. A fraction of energy is used to create spare parts for the vehicle as long as vehicle complies with vosa's standards and the standards set by Ministry of Transport hence Parliament. Examples are given to help the Licensing Panel to look at other cities in the U.K Sheffield, Manchester and Birmingham.
- Changes on proprietorship policy are discriminatory and malice. "Fit and Proper" if the Spouse CRB has No convictions then they should not be discriminated when the husband dies.
- Fare change of 5,6 and 7 seater Hackney Taxi. Request to be made to investigate a fare change on 5,6 and 7 seater Taxis. Please find 1 example of many that is given. Borough of Chorley (see attached documents).

Yours

Kabir Hussain



36

To: Mr Tom Tom Riordan
 Chief Executive
 Leeds City Council

Own Ref: 0.07

Your Ref:

Date: 15/10/13

Dear Sirs, Tom Tom Riordan

Re: Petition



I write with regards to the Petition which have been addressed and signed individually by Hackney Taxi Proprietors and Drivers who would need a reply back individually from your self.

The back ground is that the Bullet points in the petition needs investigating by the Licensing panel and needs to be in line with other Councils around in the UK. The investigation needs to be done by the Elected Councillors and Not by the Licensing officer's.

- Restriction of Age Limit of Taxi Vehicle should be lifted up to the age of 12 years from 8 years as this would save the planet from excess use of energy needed to create a new vehicle. A fraction of energy is used to create spare parts for the vehicle as long as vehicle complies with vosa's standards and the standards set by Ministry of Transport hence Parliament. Examples are given to Help the Licensing Panel to look at other cities in the U.K Sheffield, Manchester and Birmingham.
- Changes on proprietorship policy are discriminatory and malice. "Fit and Proper" if the Spouse CRB has No convictions then they should not be discriminated when the husband dies.
- Fare change of 5,6 and 7 seater Hackney Taxi. Request to be made to investigate a fare change on 5,6 and 7 seater Taxis. Please find 1 example of many that is given. Borough of Chorley (see attached documents).

Yours

Kabear Hussain

*

1/2

BOROUGH OF CHORLEY

THE FOLLOWING RATES OF CHARGES (VAT INCLUDED) FOR THE HIRE OF HACKNEY CARRIAGES ARE AUTHORISED BY BYE-LAWS MADE BY THE COUNCIL

FARE FOR DISTANCE COMMENCING 9TH JANUARY 2012 - A RECEIPT WILL BE GIVEN IF REQUESTED

YOU ARE BEING CONVEYED IN A
HACKNEY CARRIAGE VEHICLE

ALL PASSENGERS MUST BY LAW
USE A SEAT BELT
WHERE PROVIDED

TARIFF 1 (STANDARD CHARGE)

For the first ½ mile (approx 805 metres) **£2.30**
For each succeeding 1/17th mile or part thereof **10p**
(94.6metres)

TARIFF 3 (ADDITIONAL 100% ON STANDARD CHARGE)

For hirings begun between:
12 midnight Christmas Eve & 6.00am Boxing Day
12 midnight New Years Eve & 6.00am 2 January

TARIFF 2 (ADDITIONAL 50% ON STANDARD CHARGE)

For hirings begun between:
6.00pm - 12 midnight Christmas Eve
6.00am - 12 midnight Boxing Day
6.00pm - 12 midnight New Years Eve
10.00pm - 6.00am all other days
All public holidays (to include Easter Sunday)

WAITING TIME 10p

For each period of 30 seconds or uncompleted part

ANIMAL CARRIAGE £1

For the carriage of an animal, for the whole journey per animal (**all guide dogs will be carried free of charge**)

SOILING CHARGE £45

HACKNEY CARRIAGES LICENSED TO CARRY 5 OR MORE PERSONS MAY CHARGE AN ADDITIONAL 50% ON EACH TARIFF BUT ONLY WHEN ACTUALLY CONVEYING 5 OR MORE PERSONS, THE HIRER TO BE MADE AWARE OF THIS BY THE DRIVER AT COMMENCEMENT OF HIRING.

IF YOU HAVE ANY COMPLAINTS PLEASE CONTACT LICENSING - 01257 515151

TAXI 75

BOROUGH OF CHORLEY

THE FOLLOWING RATES OF CHARGES (VAT INCLUDED) FOR THE HIRE OF HACKNEY CARRIAGES ARE AUTHORISED BY BYE-LAWS MADE BY THE COUNCIL

FARE FOR DISTANCE COMMENCING 9TH JANUARY 2012 - A RECEIPT WILL BE GIVEN IF REQUESTED

YOU ARE BEING CONVEYED IN A
HACKNEY CARRIAGE VEHICLE

ALL PASSENGERS MUST BY LAW
USE A SEAT BELT
WHERE PROVIDED

TARIFF 1 (STANDARD CHARGE)

For the first ½ mile (approx 805 metres) **£2.30**
For each succeeding 1/17th mile or part thereof **10p**
(94.6 metres)

TARIFF 3 (ADDITIONAL 100% ON STANDARD CHARGE)

For hirings begun between:
12 midnight Christmas Eve & 6.00am Boxing Day
12 midnight New Years Eve & 6.00am 2 January

TARIFF 2 (ADDITIONAL 50% ON STANDARD CHARGE)

For hirings begun between:
6.00pm - 12 midnight Christmas Eve
6.00am - 12 midnight Boxing Day
6.00pm - 12 midnight New Years Eve
10.00pm - 6.00am all other days
All public holidays (to include Easter Sunday)

WAITING TIME 10p

For each period of 30 seconds or uncompleted part

ANIMAL CARRIAGE £1

For the carriage of an animal, for the whole journey per animal (**all guide dogs will be carried free of charge**)

SOILING CHARGE £45

HACKNEY CARRIAGES LICENSED TO CARRY 5 OR MORE PERSONS MAY CHARGE AN ADDITIONAL 50% ON EACH TARIFF BUT ONLY WHEN ACTUALLY CONVEYING 5 OR MORE PERSONS, THE HIRER TO BE MADE AWARE OF THIS BY THE DRIVER AT COMMENCEMENT OF HIRING.

IF YOU HAVE ANY COMPLAINTS PLEASE CONTACT LICENSING - 01257 515151

TAXI 75

FARE FOR DISTANCE		9 th January 2012
Tariff 1 (Standard Charge) For the first ½ mile (approx 805 metres) For each succeeding 1/17 th mile (94.6 metres) or part thereof	£2.30	10p
Tariff 2 (additional 50% on standard charge) For hirings begun between: 6.00pm - 12 midnight Christmas Eve 6.00am - 12 midnight Boxing Day 6.00pm - 12 midnight New Year's Eve 10.00pm - 6.00am all other days All public holidays (24hrs) (to include Easter Sunday)		
Tariff 3 (additional 100% on standard charge) For hirings begun between: 12 midnight Christmas Eve & 6.00am Boxing Day 12 midnight New Years Eve & 6.00am 2 January		
Hackney carriages licensed to carry 5 or more persons may charge an additional 50% on each tariff but only when actually conveying 5 or more persons, the hirer to be made aware of this by the driver at commencement of hiring.		
Waiting Time For each period of 30 seconds or uncompleted part thereof		10p
Animal Carriage For the carriage of an animal, for the whole journey, per animal <i>(all guide dogs will be carried free of charge)</i>	£1	
Soiling Charge Where the vehicle or seating is soiled or defecated upon by any passenger or animal which necessitates cleaning before the vehicle can be used again for public hire	£45.00	
A RECEIPT WILL BE GIVEN IF REQUESTED		

FARE FOR DISTANCE		9 th January 2012
Tariff 1 (Standard Charge) For the first ½ mile (approx 805 metres) For each succeeding 1/17 th mile (94.6 metres) or part thereof	£2.30	10p
Tariff 2 (additional 50% on standard charge) For hirings begun between: 6.00pm - 12 midnight Christmas Eve 6.00am - 12 midnight Boxing Day 6.00pm - 12 midnight New Year's Eve 10.00pm - 6.00am all other days All public holidays (24hrs) (to include Easter Sunday)		
Tariff 3 (additional 100% on standard charge) For hirings begun between: 12 midnight Christmas Eve & 6.00am Boxing Day 12 midnight New Years Eve & 6.00am 2 January		
Hackney carriages licensed to carry 5 or more persons may charge an additional 50% on each tariff but only when actually conveying 5 or more persons, the hirer to be made aware of this by the driver at commencement of hiring.		
Waiting Time For each period of 30 seconds or uncompleted part thereof		10p
Animal Carriage For the carriage of an animal, for the whole journey, per animal <i>(all guide dogs will be carried free of charge)</i>	£1	
Soiling Charge Where the vehicle or seating is soiled or defecated upon by any passenger or animal which necessitates cleaning before the vehicle can be used again for public hire	£45.00	
A RECEIPT WILL BE GIVEN IF REQUESTED		

FARE FOR DISTANCE		9 th January 2012
Tariff 1 (Standard Charge)		
For the first ½ mile (approx 805 metres)		£2.30
For each succeeding 1/17 th mile (94.6 metres) or part thereof		10p
Tariff 2 (additional 50% on standard charge)		
For hirings begun between:		
6.00pm - 12 midnight Christmas Eve		
6.00am - 12 midnight Boxing Day		
6.00pm - 12 midnight New Year's Eve		
10.00pm - 6.00am all other days		
All public holidays (24hrs) (to include Easter Sunday)		
Tariff 3 (additional 100% on standard charge)		
For hirings begun between:		
12 midnight Christmas Eve & 6.00am Boxing Day		
12 midnight New Years Eve & 6.00am 2 January		
Hackney carriages licensed to carry 5 or more persons may charge an additional 50% on each tariff but <u>only when actually conveying 5 or more persons</u> , the hirer to be made aware of this by the driver at commencement of hiring.		
Waiting Time		
For each period of 30 seconds or uncompleted part		10p
Animal Carriage		
For the carriage of an animal, for the whole journey, per animal <i>(all guide dogs will be carried free of charge)</i>		£1
Soiling Charge		
Where the vehicle or seating is soiled or defecated upon by any passenger or animal which necessitates cleaning before the vehicle can be used again for public hire		£45.00
PENALTY FOR BREACH OF BYE-LAWS		
The penalty for breach or non-observance of any of the above provisions shall in every case be a sum not exceeding £500.00		
Gary Hall, Chief Executive, Town Hall, Chorley, PR7 1DP		
A RECEIPT WILL BE GIVEN IF REQUESTED		

TAXI 75(4) (10/08)

BOROUGH OF CHORLEY	
THE FOLLOWING RATES OF CHARGES (VAT INCLUDED) FOR THE HIRE OF HACKNEY CARRIAGES AUTHORISED BY BYE-LAWS MADE BY THE COUNCIL	
YOU ARE BEING CONVEYED IN A HACKNEY CARRIAGE VEHICLE	
HACKNEY CARRIAGE TABLE OF FARES	
FARE FOR DISTANCE	9 January 2012
Tariff 1 (Standard Charge)	
For the first ½ mile (approx 805 metres)	£2.30
For each succeeding 1/17th mile (94.6 metres) or part thereof	10p
Tariff 2 (additional 50% on standard charge)	
For hirings begun between:	
6.00pm - 12 midnight Christmas Eve	
6.00am - 12 midnight Boxing Day	
6.00pm - 12 midnight New Year's Eve	
10.00pm - 6.00am all other days	
All public holidays (24hrs) (to include Easter Sunday)	
Tariff 3 (additional 100% on standard charge)	
For hirings begun between:	
12 midnight Christmas Eve & 6.00am Boxing Day	
12 midnight New Years Eve & 6.00am 2 January	
Hackney carriages licensed to carry 5 or more persons may charge an additional 50% on each tariff but <u>only when actually conveying 5 or more persons</u> , the hirer to be made aware of this by the driver at commencement of hiring.	
Waiting Time	
For each period of 30 seconds or uncompleted part	10p
Animal Carriage	
For the carriage of an animal, for the whole journey, per animal <i>(all guide dogs will be carried free of charge)</i>	£1
Soiling Charge	
Where the vehicle or seating is soiled or defecated upon by any passenger or animal which necessitates cleaning before the vehicle can be used again for public hire	£45.00
PENALTY FOR BREACH OF BYE-LAWS	
The penalty for breach or non-observance of any of the above provisions shall in every case be a sum not exceeding £500.00	
Gary Hall, Chief Executive, Town Hall, Chorley, PR7 1DP	
A RECEIPT WILL BE GIVEN IF REQUESTED	

TAXI 75(3) (12/11)



Alpha Hire & Hackney Welfare Society
Leeds Media Centre
21 Savile Mount,
Leeds LS7 3HZ
Mobile: 07851047101
Email: alphahireandhackney@gmail.com

PETITION

- EXTENSION ON AGE CRITERIA
- POLICY CHANGE
- FARE CHANGE ON 5,6 AND 7 SEATER HACKNEY TAXI

NAME: [REDACTED]

ADDRESS: [REDACTED]

EMAIL:

MOBILE NUMBER: [REDACTED]

Extension on Age Criteria 12 YEARS

Save our planet, save on the carbon footprint on manufacture of a new vehicle.
Keep in line with austerity measure by keeping the existing vehicle with a valid MOT every six Months after the age of 10 years.

POLICY CHANGE

Hackney Carriage Proprietors request that the existing policy should be kept as this is a **working policy** which has been successful, Practical and actually working for many years.

Certain changes proposed are discriminatory.
Review of the policy in next Five Years.

FAIR CHANGE ON 5,6 AND 7 SEATER HACKNEY TAXIS

I BEING THE ABOVE NAMED REQUEST THAT LEEDS CITY COUNCIL TO ADD ON TO THE CURRENT BYE-LAWS MADE BY THE TAXI AND PRIVATE HIRE LICENSING DEPARTMENT THE FOLLOWING RATES OF CHARGES (VAT INCLUDED) FOR HIRE OF HACKNEY CARRIAGES LICENSED TO CARRY 5 OR MORE PERSONS FROM CURRENT 50P EXTRA TO ADDITIONAL 50% ON EACH TARIFF ONLY WHEN ACTUALLY CONVEYING 5 OR MORE PERSONS THE HIRER TO BE MADE AWARE OF THIS BY THE DRIVER AT COMMENCEMENT OF HIRING.

SIGNED [REDACTED]

DATE: 3/9/13

*

Report of Head of Licensing and Registration

Report to Licensing Committee

Date: 12th November 2013

Subject: Interim Review of Sex Establishment Fees

Are specific electoral Wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, name(s) of Ward(s):		
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 type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:		
Appendix number:		

Summary of main issues

1. Licensing Committee set the fees for sex establishments (sexual entertainment venues, sex shops and sex cinemas) in April 2013. The fees are reviewed regularly, usually on an annual basis.
2. Under the EU Services Directive and the Provision of Services Regulation 2009, the council may set a reasonable fee that only includes the costs related to the application process.
3. The fee for sex establishments have included the cost of a hearing. Sex shop renewals in the past have not attracted objections which would lead to a hearing. Therefore officers recommend that the fee for a sex shop renewals be reduced to take into account this fact.

Recommendations

4. That Licensing Committee consider the contents of this report and approve a reduced fee for sex shop renewals.

1 Purpose of this report

- 1.1 To request that Licensing Committee considers a reduction in fees for sex shop/cinema renewals.

2 Background information

- 2.1 In 2010 the Government introduced a new category of sex establishment called a “sexual entertainment venue”. This reclassified lap dancing clubs as sexual entertainment venues and gave local authorities the power to regulate such venues. The intention was to give local people greater say over the number and location of lapdancing clubs in their area.
- 2.2 In January 2011 the Council made a resolution to adopt the provisions of Sch 3 of the Local Government (Miscellaneous Provisions) Act as amended by the Policing and Crime Act 2009, effective from 1st October 2011.
- 2.2 As part of this process the Licensing Committee set a new fee for all applications for sex establishments. This included sexual entertainment venues, sex shops and sex cinemas. At this time there was increased interest in sex establishments and it was likely that all applications for sex establishments would attract objections and therefore require a hearing. The fee was set accordingly, with an element of that fee to cover the cost of a hearing.

3 Main issues

- 3.1 The Local Government (Miscellaneous Provisions) Act 1982 states that the licensing authority may set a reasonable fee.

EU Services Directive

- 3.2 The European Services Directive ensures that the fee is limited to cost recovery. It provides:

“Authorisation procedures and formalities shall not be dissuasive and shall not unduly complicate or delay the provision of the service. They shall be easily accessible and any charges which the applicants may incur from their application shall be reasonable and proportionate to the cost of the authorisation procedures in question and shall not exceed the cost of the procedures.”

- 3.3 Regulation 18 of the Provision of Services Regulations effectively replicates the provisions of the Directive. Guidance on the provisions was given in the Department for Business Innovation and Skills’ Guidance for Local Authorities on the Provision of Services Regulations. This states:

“Local Authorities must set fees that are proportionate to the effective cost of the procedure dealt with. As costs vary from region to region, central advice on the level of fees will not be appropriate. Local Authorities will need to bear in mind the threat of legal challenge should a service provider feel that the levels of fee are being used as an economic deterrent or to raise funds for Local Authorities. Enforcement costs should not be assimilated with the application fee. This is to forestall the possibility of an unsuccessful applicant seeking legal remedy due to part of his fees having been used to subsidise his successful competitors.”

- 3.4 The Department's corresponding Guidance for Businesses on the Provision of Service Regulations states:

“Under regulation 18, fees charged in relation to authorisations must be proportionate to the effective cost of the process e.g. to cover the actual cost of the application process. Fees should not be used as an economic deterrent to certain activities or to raise funds. As now, if you believe the fee to be disproportionate you can contest it with the authority concerned.”

Hemmings Case

- 3.5 In 2012 the operators of a number of sex shops in Westminster were successful in their High Court action against Westminster City Council, in challenging the level of fees set by them. The basis of the case was that the authority had not taken into account a European Directive and to that effect, the fees were in excess of what they should have been. It was argued that prosecuting persons, businesses and companies who operate sex establishments illegally could not be included in the fee structure of the council.
- 3.6 Westminster Council appealed the decision of the High Court to the Court of Appeal, which dismissed the appeal, supporting the High Court. In summary, the Court of Appeal decided that the fees charged by Westminster Council were incorrectly calculated after the European Directive became effective in the beginning of 2010.
- 3.7 In the High Court decision, Keith J held that the council had not validly determined a licence fee for any years after the year ending 31 January 2006 and ordered it to do so and to make restitution of the difference between the payments that it had received and the lawful fee set. He also ordered the council to pay indemnity costs and the enhanced rate of interest, because it had rejected an offer by the respondents that was more advantageous to it.
- 3.8 In a very detailed and analytical judgement, the Court of Appeal had determined that Westminster was wrong in determining their fee structure and that the fees needed to be recalculated with reference to the correct process.
- 3.9 It is clear that the Court of Appeal have determined that where there is an administrative licensing process, there is a need to be particularly careful with how the fee structure is established. This of course is critical if the fees are not set centrally as standard fees.

Leeds City Council Fees

- 3.10 In 2011 the council set the same fee of £2,880 for the grant, renewal and transfer of any type of sex establishment licence. At that time it was anticipated that the interest in sexual entertainment venues would extend to all types of sex establishment and that the council would receive objections to sex shop renewals in the same way as it receives objections to sexual entertainment venues. This would have necessitated a hearing for all applications of sex establishments and so this cost was included when calculating the fee.

3.11 The fee set at £2,880 included the following costs:

Application Process

Check, acknowledge, receipt and bank fee, enter record on database, notify agencies and ward members, update website	1 hour @ £43	£43
Enquiries from members of the public, enter and acknowledge objections	10 hours @ £43	£430
Notice checks	4 hours @ £62	£248
Site visits	2 hours @ £62	£124
Issue of licence, licence prep, endorse and despatch	1 hour @ £62	£62
	Total	£907

Hearing Process

Chair's brief, including reports preparation, agenda print, room hire, legal, clerk, Members allowances		£612
Hearing, including notice of hearing, print and postage, room hire, legal, Members allowances		£1086
Decision notice including minutes, legal, print and postage, formal notice of decision to applicant		£190
Total		£1,888

- 3.12 In 2013 the fee was reviewed and increased by 3% in line with inflation to £2,884 for a new, transfer and renewal application and £927 for a variation. At that time the council was undergoing a review process on the sex establishment policy. It was anticipated that this would similarly attract attention to all types of sex establishment and that the council would receive objections to sex shop renewals and so maintained the same fee for all sex establishment licences.
- 3.13 The renewal processes for licences for sex shops occur at the same time each year, in January. In 2012 and 2013 the council did not receive any objections to the renewals and the licences were granted for a further 12 months without the need to convene a hearing.
- 3.14 The council has now received correspondence from sex shop operators challenging the current fee and requesting a further detailed breakdown of the costs.
- 3.15 Talking into consideration the EU Services Directive, the confirmation of the law in the Hemmings case, and the request from sex shops operators for further information with regards to the fees set in Leeds, it is timely to consider if the fees as set truly reflect the cost of the licensing process.
- 3.16 As part of the scrap metal fee setting process, officers requested a recalculated hourly rate for Entertainment Licensing staff. Due to savings made the staff hourly rates have reduced.
- 3.17 The application process for processing a sex shop renewal has been examined and the time allocated to each task has been reviewed.

3.18 Officers recommend that the following fee accurately reflects the cost of processing a sex shop and cinema renewal, variation and transfer application and recommends that a fee of £1,250 be applied.

Admin process of application, incl.	7 hours @ £43	£301
<ul style="list-style-type: none"> • check, receipt & acknowledge • bank fee • enter record on database • carry out relevant checks (enforcement records, companies check etc), • notify agencies and ward members • update and maintain website 		
Public/elected member/agency enquiries and associated administrative work	2 hours @ £43	£86
Site notice checks	8 hours @ £48	£384
Prep licence, check by principal officer, endorse, print and post	1 hour @ £43 1 hour @ £52	£43 £52
Site visits to check compliance, including associated correspondence and recording	8 hours @ £48	£384
Total		£1,250

3.19 The fee for a new application for a sex shop will remain the same at £2,884 until the fees are reviewed in March 2014 as these applications must be heard by Licensing Committee.

3.20 The proposed fee structure for sex shops and sex cinemas is

New	£2,884
Renewal	£1,250
Transfer	£1,250
Variation	£1,250

3.21 Should sex shop renewals start to attract objections, the fee can be reviewed and amended to reflect these costs. The council does not currently licence any sex cinemas.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 The initial fee setting process formed part of the wider consultation on the Sex Establishment Statement of Licensing Policy. No comments were received regarding the proposed fee. The subsequent review suggested an increase in line with inflation and therefore was not consulted upon. In general the setting of licensing fees is a matter reserved for Licensing Committee.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 There are no implications for equality and diversity/cohesion and integration.

4.3 Council policies and City Priorities

4.3.1 The licensing regime contributes to the following Best Council Plan 2013-17 outcomes:

- Improve the quality of life for our residents, particularly for those who are vulnerable or in poverty;
- Make it easier for people to do business with us.

4.3.2 The licensing regime contributes to our best council objective:

- Ensuring high quality public services – improving quality, efficiency and involving people in shaping their city.

4.4 Resources and value for money

4.4.1 The licensing of sex establishments attracts a fee which can only be used to pay for the costs associated with the licence application and cannot be used to cover the cost of enforcement or investigation of unlicensed activity. As such the policy review is a cost to the council, which is not recovered by the licence fee.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The Hemmings case has highlighted the needs for councils to ensure that fees only include the costs of processing applications.

4.6 Risk Management

4.6.1 Following the result of the Hemmings case there is a risk of the licensed sex shop and cinema trade challenging the fees set by the authority, if they consider that the fee is not reasonable or that the council is making a charge for matters that are not relevant to the applications process.

5 Conclusions

5.1 Taking into consideration the European Services Directive, the Provisions of Services Regulations and the Hemmings case, officers recommend that the fee for the renewal, transfer and variation of sex shops and sex cinemas licences is reviewed and reduced to reflect the fact that the council has not taken such an application to hearing in the last two years.

6 Recommendations

6.1 That Licensing Committee consider the contents of this report and approve a reduced fee for sex shop renewals, transfers and variations.

7 Background documents¹

7.1 There are no unpublished background documents that relate to this matter.

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

LICENSING COMMITTEE WORK PROGRAMME 2013/14- LAST UPDATED 25/10/13 (hg)

ITEM	DESCRIPTION	NOTES	TYPE OF ITEM
Items Currently Unscheduled			
HC Proprietor Licence Conditions	To receive a report considering a review of the Hackney Carriage Proprietor Licence Conditions, and including the findings of the Members Working Group	D Broster	RP
PH Vehicle Licence Conditions	To receive a report considering a review of the Private Hire Vehicle Licence conditions	D Broster	RP
Late Night Levy	To receive a report back on the outcome of discussions regarding the governance arrangements for the implementation of the Late Night Levy, particularly the mechanism for overseeing the spending of the Levy	S Holden/WYP	PM

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
Meeting date: TUESDAY 4 JUNE 2013. HELD. Annual Governance arrangements, Annual Report			
Meeting date: 25 JUNE 2013. HELD. SEV policy, Law Commission interim statement, Executive PH policies			
Meeting date: 23 JULY 2013. HELD. Enforcement Activity Update, Trike PH applications, ELS Activity Update, Site Allocation Plan, Late Night Levy			
Meeting date: 13 AUGUST 2013. HELD. TPHL Decision Making Process, Leeds Festival			
Meeting date: 10 SEPTEMBER 2013. HELD. Scrap Metal Dealers Act, TPHL Monitoring Proposals (deferred), SEV update			
Meeting date: 15 OCTOBER 2013. HELD. WYP presentation, TPHL Monitoring proposals, Wi-Fi in Taxis, Shisha Smoking, Budget update, Leeds Festival interim report			
Meeting date: 12 NOVEMBER 2013			
Immediate Suspensions Policy (TPHL)	To receive a report considering a review of the Immediate Suspensions Policy	D Broster	RP
Sex Establishments – Sex Shop licence Fee Review	To receive a report considering a review of the current fee charges applied to licensed sex shops	N Raper	RP
Petition from HC Proprietors/Drivers	To receive a report on a petition received from Hackney Carriage Proprietors and Drivers	J Mulcahy	B
Leeds Festival 2013 – Full de-briefing	To receive a full de-briefing on the Leeds Festival 2013, including input from the Festival organiser and multi-agency partners	S Holder	B

LICENSING COMMITTEE WORK PROGRAMME 2013/14- LAST UPDATED 25/10/13 (hg)

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
Meeting date: 17 DECEMBER 2013			
Disclosure and Barring Service	To receive an update	D Broster	B
Three Yearly Licences	To receive a report on the findings of the Working Group established by the Committee	D Broster	PM/DP
PH Operator Conditions (TPHL)	To receive a report considering a review of the Private Hire Operator Conditions	D Broster	RP
TPH Convictions Criteria (TPHL)	To receive a report considering a review of the Taxi and Private Hire Convictions Criteria	D Broster	RP
Licensing Act 2003 Statement of Licensing Policy 2014-18	To receive a report on the Statement of Licensing Policy 2014-18 (Licensing Act 2003)	S Holden	RP
Meeting date: 14 JANUARY 2014			
TPHL – update on the Decision Making process suspensions/revocations	To receive a six monthly update on the decision making process in respect of suspensions and revocations undertaken by the Taxi and Private Hire Licensing Section for the period June to November 2013	D Broster	PM
Update on Enforcement Activity	To receive a report providing an update on the enforcement activity undertaken by the Entertainment Licensing Enforcement & Liaison Team for the period June – November 2013	S Kennedy	PM
ELS – update on activity	To receive a six monthly update on the activity and applications processed by the Entertainment Licensing Section June to Nov 2013	N Raper	PM
Street Drinking in the City Centre	To receive a report on street drinking in Leeds City Centre	S Holden	B
Meeting date: 11 FEBRUARY 2014			
TPHL Equality Monitoring	To receive an update on the data collection levels achieved so far (since Oct 13) in respect of HC and PH applicants and licence holders,	D Broster	PM
WYP Presentation	Policing and the Night time Economy		B
Meeting date: 11 MARCH 2014			

LICENSING COMMITTEE WORK PROGRAMME 2013/14- LAST UPDATED 25/10/13 (hg)

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
Meeting date: 8 APRIL 2014			
Shisha Smoking issues - update	To receive an update report from LCC Health and Safety Team on shisha smoking in Leeds and the Service's remit on enforcing smoking regulations	R McCormack	B
Wi-Fi in licensed vehicles	To provide an update on the take-up of Wi-Fi within Hackney Carriage Vehicles following amendments to the existing conditions to facilitate its use (Oct 13) and providing information exploring the expansion of the initiative throughout the rest of the licensed vehicle fleet	D Broster	RP
Meeting date: 13 MAY 2014			

Key:
 RP – Review of existing policy DP – Development of new policy PM – Performance management B – Briefings SC – Statutory consultation

This page is intentionally left blank