



LICENSING COMMITTEE

MEETING TO BE HELD IN CIVIC HALL, LEEDS ON
TUESDAY, 17TH DECEMBER, 2013 AT 10.00 AM

MEMBERSHIP

Councillors

K Bruce - Rothwell;
N Buckley - Alwoodley;
R Charlwood (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>	
6			<p>MINUTES</p> <p>To approve the minutes of the last meeting held on 12th November 2013</p>	1 - 6
7			<p>REVIEW OF PRIVATE HIRE OPERATOR (PHO) CONDITIONS</p> <p>To consider the report of the Head of Licensing and Registration presenting a comprehensive review of the Private Hire Operator Conditions</p>	7 - 68
8			<p>INTRODUCTION OF THREE YEARLY DISCLOSURE AND BARRING SERVICE CHECKS ON HACKNEY CARRIAGE DRIVERS, PRIVATE HIRE DRIVERS, HACKNEY CARRIAGE PROPRIETORS AND PRIVATE HIRE OPERATORS</p> <p>To consider the report of the Head of Licensing and Registration on the introduction of three yearly Disclosure and Barring Service checks on Hackney carriage drivers, private hire drivers, Hackney carriage proprietors and private hire operators</p>	69 - 100

Item No	Ward/Equal Opportunities	Item Not Open		Page No
9			<p data-bbox="675 181 1286 248">LICENSING ACT 2003 - STATEMENT OF LICENSING POLICY 2014-18</p> <p data-bbox="675 293 1350 394">To consider the report of the Head of Licensing and Registration on the Statement of Licensing Policy 2014-18</p>	101 - 180
10			<p data-bbox="675 506 1150 539">STRONG ALCOHOL SCHEMES</p> <p data-bbox="675 573 1366 752">To consider the report of the Head of Licensing and Registration providing information on the progress being made in other areas with a voluntary scheme which works with business to remove high strength, low cost alcohol from sale</p>	181 - 186
11			<p data-bbox="675 831 1187 864">LICENSING WORK PROGRAMME</p> <p data-bbox="675 898 1291 976">To note the contents of the Licensing Work Programme</p>	187 - 190
12			<p data-bbox="675 1043 1233 1077">DATE AND TIME OF NEXT MEETING</p> <p data-bbox="675 1111 1370 1189">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, 12th November, 2013

PRESENT: Councillor R Charlwood in the Chair

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

64 Opening remarks

The Chair welcomed all present, noting the attendance of representatives of the Hackney Carriage trade. Members of the specialist SEV sub committee, due to sit during the following week, were reminded of the briefing session scheduled to commence at the conclusion of this meeting

65 Late Items

No formal late items of business were added to the agenda. Members were however in receipt of revised cover report for agenda item 9 "hackney carriage petition" due to an error made during production of the agenda (minute 71 refers)

66 Declaration of Disclosable Pecuniary Interests

There were no declarations of interest

67 Apologies for Absence

Apologies were received from Councillors Bruce and Gettings. Councillor Downes would attend in due course as he was attending a Planning Inquiry

68 Minutes

RESOLVED – The minutes of the previous meeting held 15th October 2013 were agreed as a correct record

69 The Leeds Festival - De-Brief Report

The Head of Licensing and Registration submitted a report advising the Committee of matters arising from the 2013 Leeds Festival held in the grounds of Bramham Park between 23rd and 25th August 2013. The report included a copy of the Premises Licence relevant to the event (Appendix A) and a summary of the outcome of the multi-agency de-briefing meeting held 7th October 2013 at Appendix B.

Mr M Benn, Festival Republic, attended the meeting and responded to queries on the impact of the heavy rain and storms during the Festival in respect of the provision of entertainment; access and egress to the site; drainage and safety. The Committee also discussed the impact of mud and discarded belongings after the close of the event on the city centre and railway station. Mr Benn tabled a schedule of changes already implemented to the on-site drainage system and also outlined measures to be considered

in the emerging Event Management Plan for the 2014 Festival in the light of this year's event and comments from the multi-agency meeting.

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

Mr M Everson and Mr M Ward, LCC Environmental Protection Team, also attended the meeting and responded to Members comments in respect of noise issues.

Members expressed their continued support of the Festival and the work undertaken by the organiser with agencies to ensure the smooth running of the event

RESOLVED –

- a) To thank Mr Benn and officers for their attendance
- b) To note the contents of the report on the 2013 event

70 Policy in respect of the Immediate Suspension of Hackney Carriage and Private Hire Driver Licences

The Head of Licensing and Registration submitted a report providing information on the process undertaken by officers in respect of immediate suspension powers.

The Committee previously requested that guidelines on the use of immediate powers of suspension be prepared following receipt of a petition from a representative organisation of some members of the trade. The guidelines (attached as Appendix 1 of the report) were approved by the Committee on 16th October 2012 (minute 60 refers) and released for public consultation.

Additionally, the report drew together the Councils statutory responsibility, the legal guidance and provided an overview of the operational decision making for making immediate suspensions throughout 2012/13. Schedules showing the decision making process and the nature of such cases during 2012/12 were attached as Appendices 2, 3 and 4 respectively.

The result of the public consultation on the guidance was contained at Appendix 5 of the report.

(Councillor Downes joined the meeting at this point)

The Section Head, Taxi and Private Hire Section presented the report and responded to Members comments in respect of the following:

- The impact of immediate suspension on a drivers' livelihood
- The perception held by some elements of the Private Hire Trade that the discretion to use the power to immediately suspend a driver was not used appropriately in some cases
- The length of time an appeal to the Magistrates Court can take and the officer decision process following the outcome of an appeal

Members discussed in detail the following issues relating to Plying for hire

- The status of insurance when a PH driver ply's for hire

- The implications for passengers in terms of public safety, compensation and insurance
- The weight of the evidence required by the Magistrates (beyond reasonable doubt) and by officers reviewing a decision following the outcome of appeals (balance of probabilities)

Members requested a report from the City Solicitor in response to those comments.

Members noted comments on the status of the existing operational procedure and a request that the new Policy should be reviewed by the Licensing Committee Hackney Carriage/Private Hire Working Group (HC/PH WG)

It was acknowledged that the policy had been developed in response to the serious public safety concerns raised by the trade and Committee in respect of plying for hire; however, having regard to all the views now expressed by the trade; the Committee suggested there was a need to review the approach taken to the use of the powers of immediate suspension in plying for hire cases and that this should be undertaken by the HC/PH WG. It was noted that in the interim, the existing procedure would remain in place

RESOLVED –

- a) That the contents of the report and the legal advice from the City Solicitor therein be noted
- b) To note the contents of the draft policy on Immediate Suspensions and Revocation Decisions, including the process already undertaken by officers
- c) That the observations made by Members be noted
- d) That the element of the draft Policy in respect of immediate suspension for plying for hire be removed from the draft Policy and be referred to the Licensing Committee Hackney Carriage and Private Hire Working Group for further consideration. A report back from the WG will be presented in due course to the Committee.
- e) That officers be requested to prepare a report on the draft Policy (with the exception of the Plying for Hire element) for consideration and implementation by the Executive

71 Petition by Hackney Carriage Proprietors and Drivers

The Head of Licensing and Registration submitted a report responding to issues raised in a petition submitted by the Alpha Hire and Hackney Welfare Society on behalf of Hackney Carriage Proprietors and Drivers.

The petition sought Members' consideration of three issues: -

- 1) A request to increase of the current vehicle age criteria to 12 years;
- 2) A request to review of Policy for the Transfer of a Hackney Carriage Proprietor's Licence on the Death of the Proprietor; and
- 3) A request to introduce a new Hackney Carriage Tariff for 5, 6 and 7 seated vehicles

A copy of the covering letter from Alpha Hire and Hackney Welfare Society was included at Appendix A of the report. A copy of the petition containing 134 signatures was available on request and at the meeting

The Committee discussed the following:

Age criteria – Members noted their decision of January 2013 to retain the current age criteria as 7 years, but to request that a vehicle profile of the entire fleet be undertaken in order to inform further consideration of the age criteria in 2016. Members noted that the age criteria was a guide and that vehicles, if properly maintained, could continue as licensed vehicles after 7 years. Members considered that, in response to the request and the current economic climate, it was now appropriate to request that information on the outcome of the fleet profile review undertaken so far be presented to the HC/PH Working Group

Transfer of licence – This issue was currently being reviewed by the HC/PH WG with a report back to Committee expected in the New Year, following consultation with the trade

HC tariff – That issues such as this would usually be presented to the Hackney Carriage (HC) Forum before coming to Committee. Members noted that a HC Forum meeting was scheduled for the end of November and that those trade representatives in attendance today confirmed that this matter could be placed on the Forum agenda for discussion.

Additionally, the Committee requested officers consider how the minutes of the HC and PH Forums could be provided to the Committee in the future. The Committee, having considered the contents of the petition and the report

RESOLVED –

- a) That in respect of the vehicle age criteria, to request that information be provided to the Hackney Carriage Private Hire Working Group on the outcome of the fleet profile review undertaken so far,
- b) That in respect of the Policy for the Transfer of a Hackney Carriage Proprietor's Licence on the Death of the Proprietor, to note that the HC PH WG was currently reviewing the relevant Policy and would report back to full Committee in the New Year
- c) That in respect of a new Hackney Carriage Tariff for 5, 6 and 7 seated vehicles, to note that this matter will now be discussed at the next meeting of the HC Forum on 27th November 2013
- d) That officers be requested to consider a mechanism whereby the minutes of the respective Trade Forums can be provided to Members of the Licensing Committee
- e) To note that a response containing the outcome of the Committee's consideration of the petition would be sent to Alpha Hire and Hackney Welfare Society and copied to Members for their information

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

72 Interim Review of Sex Establishment Fees

The Head of Licensing and Registration submitted a report seeking consideration of proposals to reduce fees for sex shop and sex cinema licence renewals. The report set out the background to the review of the fees.

The Section Head, Entertainment Licensing presented the report and reassured the Committee that the reduced fee for licence renewals would cover the costs of the administrative process.

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

RESOLVED –

- a) That the contents of the report be noted
- b) That a reduced fee for s shop and cinema renewals; variations and transfer application be approved as £1,250 (as set out in paragraph 3.18 of the submitted report)
- c) That the fee for a new application for a s shop or s cinema will remain as £2,884 (as set out in paragraph in 3.19 of the submitted report)
- d) To note that a further review of the fees will take place in March 2014

73 Licensing Work Programme

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

74 Date and Time of the Next Meeting

RESOLVED – To note the date and time of the next meeting as Tuesday 17th December 2013 at 10:00 am

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Report of Head of Licensing and Registration

Report to Licensing Committee

Date: 17 December 2013

Subject: Review of Private Hire Operator (PHO) Conditions

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. In licensing Private Hire Operators (PHO) the Council has a statutory obligation to ensure that the applicant and directors are 'fit and proper' persons. That requirement continues throughout the lifetime of a licence and at the point of renewal.
2. Conditions can be imposed upon a PHO licence to ensure its operating practices meet the specific requirements of the Council. The conditions have to be proportionate and relevant to that area of licensing and regulation. Conditions cannot supersede controlling primary legislation (for example planning law).
3. The current PHO conditions have not been reviewed for a considerable time and the growth of the industry, the advances in technology, the increased public safety and expectations of service requirements all indicate the need for a comprehensive review. In one particular area there is an urgent need for review ('Out of town' taxis).
4. Initial public consultation has taken place and individually with some PHO's. Those results, Officer views and reviewing other local Authority conditions leads to the wide range of proposals in this report. The proposals are not distilled to the fine detail but give sufficient information for Members to consider the essential principles and review before returning to wider consultation.
5. Members are informed that the private hire industry in Leeds is a significant supplier of passenger transport in the licensing district and in the top few industry leaders in the country. Some of the organisational aspects of their businesses are exemplary, some need significant development. Some proposals in the report are designed to extend

that best service and management across the industry but without losing sight of the vital role small PHO's have in local communities. The balance between additional business costs and necessary industry improvements are recognised and further views might arise following final consultation.

Recommendations

6. That Members consider and make appropriate observations prior to further consultation.
7. Because of the scale of the issues it is considered appropriate that a full 3 month consultation takes place which will enable wider contact with disability groups and partner agencies in respect of the broader issues.
8. In respect of 'out of town' HCV's there is a potential public safety issue to be addressed at the earliest opportunity and it is proposed that initial consultation should be of one month with a review period of 6 months following implementation.

1 Purpose of this report

- 1.1 To present a comprehensive review of the PHO conditions and submit proportionate proposals to contribute an uplift of service standards and compliance across the operator licensing base and meet arising public safety challenges.
- 1.2 These are significant change proposals and the report briefly sets out the safety, service quality, compliance and complementary issues that need to be addressed. In doing so, the proposals are sensitive to imposing unnecessary financial burdens, but does balance that in highlighting the necessity for change. Timescales for service improvement that have a cost effect or potentially significant training input can be built in but the need for increased professional standards in some areas needs to be addressed much more quickly. Members are pointed to those considerations in the body of the report.
- 1.3 The report has already had two distinct periods of consultation, the first being public and the second direct interaction with PHO's. The next stage is for Members to contribute to this report prior to approving further consultation. The presentation of the final reports and their recommendations will follow on from that.

2 Background information

- 2.4 The private hire industry in Leeds consists of:

- 83 Operators
- 4991 PHD's
- 3756 PHV's
- 171 Licensed escorts

- 2.5 In addition to the everyday service provision, the private hire sector is the most significant supplier to the Council's Education and Social Services Contracts and this brings with it potentially high levels of access to children and vulnerable adults. In awarding a contract to a private hire operator through an approved procurement tendering process it has to be taken as read that the drivers and escorts supplied by the operator have been assessed against the convictions criteria.
- 2.6 Whilst standards of safety and accountability in other areas of Taxi & Private Hire Licensing have moved forward significantly over recent years, the private hire operator conditions which should spell out their responsibilities and accountability have not and in many areas are not in 'sync' with today's professional business and safety standards in the public transport environment.
- 2.7 Some PHO's have made significant business strides in the last decade and embraced technology, the principles of good business and employment law and worked co-operatively with the Authority. However, that is not the case across the board.

- 2.8 In setting out the proposals later in this report Members may wish to consider the remarks of Mr Justice Hickinbottom, in the High Court of Justice, Queens Bench Division, Administrative Court, Leeds on 27 September 2012.

In respect of licensing the operators of private hire vehicles, section 55(3) of the 1976 Act provides:

“A District Council [i.e. the licensing authority] may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary”.

The wording of section 55(3) gives Licensing authorities considerable scope for setting operator conditions.

However, the discretion must be exercised against the background of the conferring legislation and to further the objectives of the 1976 Act. The patent intention of the Act is to impose a regulatory scheme which (i) is focused on operators and (ii) is inherently local in character, including enforcement by the relevant local licensing authority. “

- 2.9 In addition to setting out in straightforward terms the purpose of this part of the Local Government (Miscellaneous Provisions) Act, 1976, the emphasis is on reasonableness and localism. What might not be done in other Authorities, for whatever reason, should not deter Members from considering what is proportionate and most beneficial for Leeds citizens and those who visit the city and users of the private hire industry.
- 2.10 The report sets out not only proposals for a safer and more accountable transport management system but pushes forward the view that if a licence is granted by this Authority the business should be run in accordance with all of those other Acts of Parliament that reduce the risk of money laundering, tax and benefit avoidance issues that Members might want to consider. It also tackles the ‘out of town’ licensing issues where significant challenges are presented to the Authority.
- 2.11 Members are reminded this report does not set out final recommendations but it is an opportunity for them to contribute to the final stage of consultation before coming back to Members for consideration

3 Main issues

- 3.1 There has been public consultation and an invitation to all PHO’s to work more closely with the Taxi & Private Hire Licensing staff and to work through some of the issues raised in this report or other areas of potential development. Despite repeated efforts these were not well attended and in reality those who did attend are the PHO’s who most frequently attend the PHO forums but also contribute positively to the issues in question.
- 3.2 The existing PHO conditions are attached at **Appendix 1** along with brief Officer comments.
- 3.3 The proposals for consultation on new PHD conditions are set out as follows:-

3.4 Customer focus and Business improvements

3.5 Corporate clothing (shirt or outer garment)

PHO consultation feedback:- This is an issue often raised by the trade and some Members and their views were:-

“Personal choice of company; companies should have a badge designed for themselves; agree but can be expensive; badge good idea but it adds to the expense. Whilst the majority thought it was beneficial to have ‘company clothing’, cost was a consideration but most thought that it was in the best interests of those who did so and if others did not want to invest in was their loss.”

Officer comment:- There are distinct benefits to this in terms of enhanced safety for customers and also improving the image of the trade in the city. There appears to be a positive link between those PHO’s who already do this and are progressing in a business-like manner and supplying a uniform style shirt with the company detail/logo on it. However, it is thought to be beyond licensing control and should be considered as a good business practice by PHO’s..

No change proposed.

3.6 Staff training

PHO consultation feedback:- In discussion it raised some strong reaction generally the argument was put forward throughout the consultation of *‘if they don’t want to invest, it’s their problem’* view but also it was felt that each private hire operator (except single vehicle companies) should ensure that all of their call handling staff have received:

- Accredited customer service training
- Data protection training
- Be subject to a DBS

The view of some PHO’s was that a DBS disclosure was important considering the amount of personal and secure information that could be accrued. They also felt that the practice of using totally unqualified staff is inappropriate. Concerns in the trade are that people are ‘employed’ outside of all of the employment law, Inland Revenue arrangements, minimum wage legislation and outside of other financial scrutiny arrangements that should be in place.

Officer comment:- The Data Commissioner retains responsibility for monitoring the ‘data controller’ (PHO) and so is primary legislation, similarly HM Revenue and Customs are the appropriate authority for some of the proposals. Whilst

some of the issues might be poor business practice or worse it is thought to be beyond licensing control.

No change proposed.

3.7 Public access areas of Operator premises

PHO consultation feedback:- Suggestions raised by the trade during consultation were for additional requirements that the licensed premises must have:

- Fire risk assessment
- Full Health & Safety Risk Assessment

Officer comment:- Again the responsibility for good business practice and customer focus should remain with the operator in a competitive market place and who should be compliant with fire regulations, staff health and safety and planning requirements in respect of staff employed and public access.

No change proposed.

3.8 Record of driver hours

PHO consultation feedback:- This issue has been raised several times over the years by Members as a concern that some private hire drivers were working too many hours per day in the role or having a day job and then driving as a night shift. Although not an area of specific consultation in this process, PHO's have indicated that it is not possible to determine how long someone has been working throughout the day prior to booking on with the PHO and is therefore unmanageable.

Officer comment:- In contrast to the regulation of hours worked by a PSV or HGV driver, a self-employed private hire driver has no such legal restrictions on them. If they were the subject of a contract of employment with the PHO then there would be a restriction of 48 hours per week averaged over a 17 week period, but that is the only legal constraint. The consequences of driver fatigue all too often appear following some serious road traffic collision and whilst the driver may be held accountable for any subsequent fatality it is an issue that PHO should be aware of when they use a PHD in those circumstances. There are many full time drivers but also others who use their PHD licence as a secondary form of income.

It is not considered manageable or viable to attempt to control this issue by way of condition and there is also doubt that any such restriction could be legally imposed upon a driver or operator. It is felt that this issue is best dealt with as an awareness and best practice issue for PHO's.

No change proposed.

3.9 Fares and receipts

PHO consultation feedback:- How information is imparted to the public does not present a significant problem for most operators and where there is a reoccurring problem PHO's should look at improving their information or more closely examining the customer-client interaction. Many PHO's already advertise their fares, some have tariff meters (the Council cannot in law insist they do) and most of the disputes over fares are resolved directly by PHO's. It was emphasised by the PHO's that it is not always an enviable position having to negotiate a fare late at night with some customers.

Officer comment:- This is often the subject of complaint by the travelling public and is frequently the root of arguments. That situation can be improved upon by clearer information at the time of booking and a visible notice showing how fares are calculated on the PHO web-site or public waiting area, to be easily read by a person seeking to hire a PHV or HCV at those premises. It would be helpful if at every point of producing such information it was pointed out 'fares and charges for private hire vehicles' are not controlled by Leeds City Council" and "fares should be agreed before the journey". "Where the vehicle uses a meter this should be clearly explained and on what occasions it is not used (pre-arranged contract fares, out of licensing District fares etc).

No change proposed.

3.10 Parking and 'return to base after booking'

Officer comment:- There are two contentious issues, particularly to the Hackney carriage trade but also residents in some cases, particularly those relatively near to larger PHO bases.

This is an area which is not within the control of the licensing office and is dealt with under primary planning legislation and the respective legal authority to enforce that legislation remains with the responsible office by statute.

A 'return to base' requirement after the completion of a pre-booked journey is mentioned in 'Button on Taxis' and includes the following comment:-

12.74 Private Hire vehicle must return to base

This can be contrasted with a condition, which is applied by at least one local authority, that, after each booking has been completed, the private hire vehicle must return to its operator's base before it can be despatched by the operator on another hiring. It is difficult to see what the justification is behind this condition. It could appear to be a recipe for considerable congestion in the vicinity of the private operator's base, a waste of time and fuel and a method of greatly increasing both environmental pollution and wear and tear on the vehicles

involved. If the district in question is sizeable (and a great many districts are large geographic areas, both in England and Wales) and the operator is based near to a boundary with another district, the situation could arise that a vehicle is being despatched on a hiring across the district, returning across the district to the base, then being sent back from whence it came to pick up the next fare which is very close to the destination of the original fare. Such a condition would be manifestly absurd.

No change proposed.

3.11 Trading name

Officer comment:- It is not the intention to restrict the appropriate or innovative naming of a PH business but it has been a source of frustration in the past to the trade and Officers. There are examples of a PHO selling the business and 'good will' only for a new operator to open a short while later with a very similar business name. Sometimes this is not dealt with in contractual arrangements and can lead to confusion with the public (as well as ill will within the trade). Similarly, where a PHO licence is revoked or suspended it seems inappropriate that the identical operating name or one closely associated to that is taken into use. Again this can be confusing for customers and drivers, and perhaps undermining of the council's regulatory sanctions.

Change proposal.

- It is proposed to deal with this issue as a pre-requisite to the grant of a PHO licence by ensuring that any potential confusion is removed when a preferred operating name is put forward. This would also apply to those names which might conflict with the operating name within a neighbouring local Authority.

3.12 Regulatory

3.13 Operator training

PHO consultation feedback: - Generally this was considered to be important to the trade during consultation but a thread of concern ran through the consultation briefings in respect of how it would affect those currently licensed. Some suggestions were proposed.

- At the point of entry to the trade there should be a PHO knowledge test as is the case with PHD's and HCD's with a licence not being granted until the appropriate test has been passed.

- Existing licensed operators would remain unaffected by this Condition unless there is a substantiated concern about breaches of conditions or associated poor practice; or
- All operators undertake an industry recognised CPC significantly relative to the trade.
- That those who manage distinct areas of the operating business under the control of the operator undertake training in PHD, PHV, Operator conditions, equality, customer service and data protection matters.

Officer comment:- Building upon the thoughts of the existing PHO's there are undoubtedly significant business improvement and public safety benefits to be gained with the training indicated by the PHO consultees. There is stability and a lot of experience within the current licensed PHO's and Officers feel that appropriate training when necessary could be more beneficial than demanding a CPC qualification.

Such a training requirement exists in respect of PHD's and that was introduced on the basis that all new applicants should undertake it and as outlined in bullet point one above. The condition on PHD's could be mirrored in respect of PHO's.

Change proposal.

- At the point of entry to the trade there should be a PHO knowledge test which incorporates all of PHD and PHV legislation and conditions and the newly approved PHO conditions.
- Where an existing PHO breaches their PHO conditions that they should be required to undertake such a test within a 3 month timescale.
- If members were minded to require at all existing PHO's undertake such testing that Officers take account of existing appropriate qualifications and set manageable timescales to develop and undertake testing.

3.14 Absence from business

Officer comment:- This is a concern of Officers who frequently cannot contact the Operator or on some occasions determine who is managing the company in his absence. It is not intended to restrict the PHO practice but to ensure that the business is conducted properly, with appropriate accountability and reasonable access to a responsible manager(s) in that period of absence. This is an issue which has been recognised by way of Condition in some other local Authority areas.

Change proposal.

To overcome this a PHO:

- should notify the Council and nominate a responsible person to take responsibility on an interim basis if they are absent and supply contact detail of the manager to the local Authority. Operators maintain a list (supplied to the local Authority) of their responsible managers along with all contact detail.
- At all times the PHO will ensure that the local Authority has his most up to date contact detail especially a mobile telephone number.

3.15 Communications with PHO's and PHD's

Officer comment:- Despite the best intentions and efforts of licensing staff it is difficult to communicate with all licensed drivers in a reasonable time frame and at an acceptable cost (2nd Class postage (60p) for 4991 drivers, costs £2995 excluding officer time in enveloping and postal arrangements) on the issues drivers need to be informed of. There would also be wider benefit here in improving communications channels in line with Member's wishes.

Proposals to overcome this include:-

- Requirement for every PHO to have an email address exclusive to their licensed PHO business to which general information could be despatched from the licensing Section.
- Requirement for PHO's to display and maintain an accessible method by which PHD's can readily access licensing information forwarded by the Licensing office along with copies of the controlling conditions on PHO's, PHD's and PHV's. This could be hard copies on a notice board or some form of display screen.

3.16 Public complaints about an PHO service

PHO consultation feedback:- Consultation responses confirmed it seemed to fall into three distinct categories:

- Unjustified complaints about service
- Poor service to the customer
- Potentially serious or criminal matters

There was a lukewarm attitude generally to reporting matters to the Authority but there have been some very good examples of clear integrity by some operators. There were mixed feelings about having to keep more records although there was an understanding of the importance of reporting some matters.

Officer comment:- This is an area frequently dealt with by Enforcement Officers who try to distinguish between a poor business service (low level complaints), which are referred to the operator to finalise directly with the customer and the other more serious matters which should be referred directly to the Authority (allegations of theft, indecency, equality breaches etc).

What appears to be clear is that even taking in to account the low level of some complaints they can build up a business profile that can be indicative of a professional development need, or in the worst case the concealing of some potential significant offending or allegations.

These concerns could be dealt with by a requirement to maintain a 'register of complaints' and outcomes for inspection by the Authority for a set period, along with a reporting requirement for some more serious matters, for example complaints or allegations of sexual misconduct, racist behaviour, violence, dishonesty, breaches of equality.

Change proposal.

- PHO's maintain a register of public complaints in a format set out by the Council.
- A duty report immediately when the licensing office is open and in any other event within 72 hours.

3.17 Lost property

This is an issue raised by Officers after consultation which is already accommodated with PHD conditions and touched upon in the preceding change proposal.

Officer comment:- This is not an unusual occurrence and there have been some excellent examples of honesty by drivers, but also an area that has led to criminal convictions with drivers stealing customers property. It is felt that 'lost property' is a sensitive area which can lead to mistrust not only in the PHO business concerned, but also the licensing policy in that potential crime is not being effectively monitored and responded to. This requirement may then focus an operator's attention into certain areas of concern.

There is an existing condition upon a PHD licence in respect of how property is properly accounted for and in the event of property coming into the hands of the PHO, Members might feel it appropriate to mirror that condition as set out below.

Change proposal.

A condition proposal in respect of customer complaints should carry over into a requirement to maintain a detailed record of 'lost property' reports and outcomes that may then focus an operator's attention into certain areas of concern.

Change proposal

LOST PROPERTY

- (a) Any property or articles of any description left in a Private Hire vehicle by a passenger and handed to the private hire operator shall forthwith, and in any event not later than 72 hours, be delivered to the Police Station for the area which the Licensed Operator is based. Appropriate enquiries should be made by the private hire operator to return the property to the owner, but nevertheless must be lodged with the Police, in line with the stated time scales in this Condition. A record of the property receipt should be retained for a period of 6 months by the driver whose responsibility it was to take care of the property when found.

3.18 Disability vehicles – driver training

Officer comment:- This is an issue raised by Officers after consultation which is already accommodated in PHV conditions. Currently the responsibility for ensuring a PHD has appropriate specific training for dealing with wheel chair users as passengers rests with the PHD by condition upon a PHV licence. This can be difficult to manage and enforce by Officers and it is felt appropriate that this safety requirement is now placed firmly with PHO's when allocating work. This requirement will beneficially impact not only on the general travelling public but also those who use the Councils transport services contract.

Change proposal.

- To place a condition upon the PHO licence to the effect that a wheelchair accessible vehicle may only be used for the transport of wheelchair users by a PHD who has attended the appropriate MIDAS training course.

3.19 PHO Tiered fees

PHO consultation feedback:- Generally there was a mix of nervousness, strong support or not seeing the point about this issue. Understandably more information on proposals was sought although there was a general recognition of fairness in the issue. Some specific comments were 'it would stop pirating firms', 'it is a money laundering opportunity for operators', 'tiered fees penalise some companies', 'other improvements as well – start-up fee and there should be significant jump between tiers', 'no – dash punishing successful companies', 'should do, some companies let drivers in for base rent and then don't use them'.

Officer comment: - The Act allows for the setting of fee's of PHO licences in the following terms (edited to the relevance of PHO's and excluding subsequent legal advertising requirements etc).

- (1) Subject to the provisions of subsection (2) of this section, a district council may charge such fees for the grant of vehicle and operators' licences as may be resolved by them from time to time and as may be sufficient in the aggregate to cover in whole or in part—

(a) the reasonable cost of the carrying out by or on behalf of the district council of inspections of hackney carriages and private hire vehicles for the purpose of determining whether any such licence should be granted or renewed;

(c) any reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles.

The current application fee is £400 and the renewal fee £300. That fee is the same regardless of how many vehicles are operated under the licence. The allocation of licensed PHV's appears at **Appendix 2**.

The consideration here is not solely one of fairness but of an appropriate and proportionate charging mechanism that reflects the number of licensed vehicles and drivers which might require enforcement or inspection activity. A number of possible charging mechanisms are under consideration.

Members may feel that it is not unreasonable in financially accounting for the future of the service that the potential for an increase on a PHD or PHV licence fee should firstly be relatively reflected in the cost of PHO fees.

3.20 'Out of Town' Hackney Carriages acting as PHV's in this licensing District

PHO consultation feedback:- Generally PHO's could not understand why somebody would want to do this and risk a poorer service to customers. The proposals in this report were suggested and there was some strong support for them.

Officer comment:- This issue is raised as a serious public safety concern by Officers, some of the PH trade and some of the HC trade. In essence it has become a means for people who may not wish to undertake the knowledge and safety tests set by this Council or other Council's and who are beyond the control of LCC Enforcement Officers.

A recent High Court case examined the legal standing of HCV's licensed by one Authority acting as a PHV in another licensing District where no PHD or PHV licence had been granted to that driver or vehicle. HCV's have always been able to undertake bookings from outside of their licensing District; for example collecting a regular customer from an airport or event outside of their licensing District.

The case(s) in question raised both concerns and possible solutions but in essence gave a green light to HCV's licensed by other Authorities to work as PHV's in areas where they have not been granted a licence.

This raises significant difficulties for a local Authority such as Leeds for example:

- HCV's not carrying the livery of this local Authority causes confusion with customers.

- The drivers and vehicles are not subject to reasonable enforcement capability by Leeds City Council.
- The drivers may not have undertaken any of the training the Leeds PHD's do.
- In the event of a complaint against the driver or vehicle, Officers have difficulty in identifying the driver and have no powers to demand information or an interview. With the driver.
- This Authority is reliant on a sanction or training requirement on the driver being carried out by another Authority and if that Authority does not have such a condition there may be difficulties in enforcing the issue or even accepting the need for such a condition or sanction.
- The fees for those drivers and vehicles licensed in this Authority may have to increase if the trend increases in volume.
- Leeds City Council are powerless to determine if such a driver or vehicle is properly licensed at any time while conducting enforcement activity on the streets.
- The risk to the public is significantly increased by drivers who would not meet the standards of this Authority or who have had their licence revoked.

Significant changes are proposed in light of relatively recent case law to ensure that appropriate measures are in place in respect of public safety and enabling the Authority to be able to conduct its enforcement activity efficiently and effectively. The preceding paragraph sets out the concerns.

The importance of urgently reviewing this PHO conditions in respect if this issue may lead Members to consider a shorter period of consultation to maximise public safety with an option of calling the matter back to Committee within a timescale which then allows for wider consultation and assessment of the issues.

The proposals for increasing public safety in respect of the issues identified above are addressed in the following paragraphs at 3.24 to 3.27 inclusive which are in addition to existing PHO conditions.

3.21 Change proposal.

Schedule of Drivers

The PHO shall notify the Licensing Authority of each and every Hackney carriage driver employed or used by the operator on his Operator Driver Schedule (Form OPDS) this includes those Hackney carriage drivers licensed by other Authorities within 72 hours.

Where an PHO ceases to employ or use any such licensed Hackney carriage driver, the operator PHO shall forthwith, and in any event within 72 hours, notify the Licensing Authority in writing and present the form OPDS to the Licensing Authority for amendment by an Authorised Officer.

The PHO shall retain a copy of the Hackney carriage driver licence granted by another authority along with a copy of the driver's DVLA licence of any driver of that vehicle and also forward a copy of those documents to the Leeds City Council Licensing Office.

3.22 Change proposal.

Schedule of vehicles

The PHO shall notify the Licensing Authority of each and every Hackney carriage vehicle employed or used by the operator on his Operator Vehicle Schedule (Form OPVS) this includes those Hackney carriage vehicles licensed by other Authorities within 72 hours.

Where a PHO ceases to employ or use any such licensed Hackney carriage vehicle, the PHO shall forthwith, and in any event within 72 hours, notify the Licensing Authority in writing and present the form OPVS to the Licensing Authority for amendment by an Authorised Officer.

The PHO shall retain a copy of the HCV licence granted by another Authority along with MOT certificate, certificate and policy of insurance; vehicle registration document and forward a copy of those documents to the Leeds City Council Licensing Office within 72 hours.

3.23 Change proposal.

Advertising on vehicles

In addition to retaining the existing PHO condition 10 it is proposed that:-

Where a vehicle is licensed by another Authority such a HCD or HCV is expressly prohibited from using any literature, any documentation or any advertising or displaying any signage associated to that PHO or Leeds City Council which suggests or might lead to a misunderstanding that the vehicle is licensed by this Authority.

3.24 Change proposal

Telephone bookings

Advance bookings for HCV's licensed by another Authority must be maintained in a completely separate register of bookings. If a computerised booking system is in place those booking records must be kept in a completely separate and distinct area of the systems hard drive to enable easy inspection by the Council.

A separate telephone line and telephone number must be installed and used for 'out of town' booking requests. In any advertising literature or web information a form of words must be used which clearly states to prospective customers the following:

- Neither this vehicle nor driver is licensed by Leeds City Council. The Council or the operator cannot give you an assurance of the current status of the driver or vehicle licence. We have to tell you that either the vehicle or driver may not be compliant with Leeds City Council training requirements, vehicle conditions or its criminal convictions criteria.
- Leeds City Council does not recommend the use of drivers or vehicles unlicensed by them on the grounds of public safety.
- Leeds City Council is not able to effectively take any action against the driver or vehicle in the event of a service complaint or serious allegation.

This message must be contained as a pre-recorded intercept message on the unique booking telephone line.

The caller should then be reminded of the PHO main operator number and given the option to be redirected to "a Leeds City Council licensed driver and vehicle".

3.25 Change proposal.

Personal liability for road traffic construction & use offences and no insurance

Officer comment:- Officers have already presented a report to Members that they will consider the prosecution of PHO's for defective vehicles used in the course of their business and it is intended to continue with that and offences where there is no vehicle insurance in place. On rare occasions that may be out of the control of the driver but control measures can be put in place which would help the PHO reduce their personal risk of prosecution and increase public safety; for example:-

- That operators maintain a monthly record of vehicle inspections carried out by them on their operating licence to ensure checks on tyres, Council livery, accident damage, condition of interior etc, as prescribed by the Council and a check list of expiry dates of the PHD, PHV licences and MOT expiry dates.
- The PHO retains a copy of the certificate of insurance of **every vehicle** operated by him which is additionally certified by the driver

- Similarly with MOT certificates
- Similarly with the DVLA licence.
- The PHO can provide a monthly inspection sheet for **every** PHV operated by him and retain such copies for 12 months. All other documents should be retained for the same period.

The personal responsibility of the licensed PHO is for the safety of their customer is inescapable and each PHO should be able to demonstrate their commitment to road safety.

3.26 Record of bookings

PHO consultation feedback:- To many PHO's this was not an issue but some complained that not everybody wanted to give their mobile telephone number and that it is difficult to get all of that information when you are busy.

Officer comment:- The first thing to realise is that this is a very basic requirement to differentiate between taxis and private hire vehicles to demonstrate a pre-booking. The obtaining of a telephone number serves two main purposes:

- 1) to validate the caller in later enquiries and discourage false entries
- 2) it can enable call or text back from the PHO to confirm the vehicle which has been despatched or that the vehicle has arrived at the booking place.

To bring the relevant condition up to date to assist in detecting plying for hire it is proposed that:-

Change proposal.

- The records required to be kept by the operator, under section 56(2) of the Local Government (Miscellaneous Provisions) act 1976, shall be kept in a suitable bound book, the pages of which shall be consecutively numbered.
- The operator shall enter or cause to be entered in the record book or computer data base, before the commencement of each journey, the following details for every booking of a Private Hire Vehicle invited or accepted by the operator or their agent.
 - The time and date of the booking and the time required – the 24 hour clock shall be used.
 - The full name of the hirer and contact number.
 - The point of pick-up.
 - The specific destination address.

- The driver's identifying number/name.

Irrespective of the vehicle used every PHO's shall ensure that the booking record clearly identifies the plate number of the PHV and badge number of the PHD for every journey.

- In the event of a failure of the computer data base the paper records shall be maintained in compliance with the preceding conditions for those PHO's who are not operating a computerised booking system. A computer data base should have the facility to print a paper record.
- Records should be kept in English and securely retained for at least 12 months following the date of the last entry or for such period as required by an Authorised Officer.
- All records shall be maintained and kept up-to-date at all times, and shall be available for inspection at all reasonable times without notice by an Authorised Officer, Police or VOSA. For the purpose of further investigation, records may be removed from the premises if so required or copied to disk, in the case of computer records. The PHO or responsible manager will certify them as a true and accurate record. GPS information must be securely stored when so required by the Council.
- A copy of any document shall be made available for collection by any duly Authorised Officer of the Council.

3.27 Telephone voice recording of bookings

PHO consultation feedback:- Some strong support was expressed as it could help in preventing plying for hire; keeps staff disciplined on customer care; good for resolving disputes; might cost more but it cuts out hassle between customer and operator; some old systems might not be compatible.

Officer comment:- Officers feel that in recording incoming calls it will assist considerably in detecting false booking entries which arise in plying for hire cases. Technology has provided massive improvements in booking licensed private hire transport but has also made the detection of 'plying for hire' more difficult. Members are aware that even with the threat of the immediate suspension of their PHD licence, possible conviction and subsequent revocation of their licence that some PHD's are not deterred from unlawfully plying for hire. This is the strongest point of concern for Officers and the trade and potentially a significant risk to public safety. 'Committed' offenders simply telephone the base and record the detail of the journey at the time of plying for hire or later.

There are some dishonest ploys by some drivers and some who complete booking records to assist drivers plying for hire. Quite often the root cause of this is the PHO does not have a sufficient customer base to justify the number of drivers on his OPDS but is willing to accept the 'base rent' and then turn a blind eye to the illegal actions of drivers.

Change proposal.

- That a condition be placed on PHO's (not sole operators) that they utilise an approved voice recording system for incoming advance bookings which corresponds with the required detail in the booking records.

3.28 Paper records or computerised booking records?

PHO consultation feedback:- Trade members were quite emphatic about the need to move forward with IT development in PHO offices to counteract false entries and improve customer service having said that, the existing PHO's recognised there needed to be a balance of the start-up point as set out below.

This question of customer service improvement has been answered by the trade on the basis of "if you want to grow your business you need to be able to properly handle the volumes of bookings".

In consultation PHO views were in agreement but the start-up point varied. The consensus was clearly that it is not possible to satisfactorily manage a PHO business to today's standards without computerisation. Members may be aware that there are a wide range of systems available and for clarity, the purpose of this report is to set a standard of integrity at a level that is proportionate to the business size.

There were some interesting discussions and four examples were:-

- Customs and Excise consider that **15** cars make it 'vatable' company.
- Small companies have gained a place in the market.
- **10** cars or more need a computerised system unless the drivers are spread out over a whole day.
- Cannot service the public without a booking and dispatch system if you have **20** cars or more.

Officer Comment:- Computer records are not infallible, but paper records show there is much more scope for easy falsification of records. An example is where a PHO leaves a series of blank lines in the knowledge that a driver who has dropped off in the city centre can then delay his departure, ply for hire and have a retrospective entry created.

Change proposal.

PHO's thought this proposal might set the right balance and accommodate those operators with small businesses and as they grow provide a satisfactory way of professionally dealing with the customer base and enabling appropriate enforcement supervision.

- Paper records – Sole Operator
PHO - 2 to 9 cars
- Approved computerised system – 10 – 19 cars
- Booking and dispatch system – 20 cars plus

Change proposal.

Members may also consider that it could be appropriate to set a policy that where there has been a notable breach of correct record keeping that it is appropriate (in addition to any other sanction) that the requirement to move from paper records to an 'approved computerised system' would be appropriate.

3.29 Requirement to report convictions

Officer comment:- This condition already exists in respect of PHD's and it is felt it should be mirrored in respect of PHO's.

Change proposal.

REQUIREMENTS TO REPORT CONVICTIONS & ASSOCIATED INCIDENTS

- (a) Any of the following events must be reported in writing to the Taxi & Private Licensing office within 72 hours during the currency of a licence giving full details:-
 - (a) any conviction or finding of guilt (criminal or driving matter);
 - (b) any caution (issued by the Police or any other agency);
 - (c) issue of any Magistrate's Court summons against them;
 - (d) issue of any fixed penalty notice for any matter;
 - (e) any harassment or other form of warning or order within the criminal law including Anti-Social Behaviour Orders or similar;
 - (f) their arrest for any offence (whether or not charged)
- (b) When required a licensed private Hire operator will undertake a Disclosure and Barring Service (DBS) vetting at his/her own expense and within a timescale set by the Council. Such a requirement may be on the basis of the Council's responsibility to ensure continued public safety and monitor licensed private hire operators.

3.30 Training requirement

3.31 Timescales of Proposals

'Out of town' issues – one month consultation period with report return to Committee in March 2014.

Remainder of report – 3 month consultation period with report returning to Committee after April 2014.

Implementation of approved proposals – This would vary to prevent disproportionate impact upon the trade and subsequent reports will propose appropriate ‘lead in’ periods. Where the issues are considered to have a more urgent public safety requirement, shorter implementation periods will be proposed.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 As highlighted earlier in the report there has already been a 3 month period of consultation (**Appendix 3**) and then a series of group sessions with private hire operators. This led to the formation of some of the proposals in this report and the recommendations at 6.2 and 6.3 set out the next steps.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 A full equality impact assessment has been completed and is available as a background document.

4.3 Council policies and City Priorities

4.3.1 The Taxi & Private Hire Licensing policies contribute to the following 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
- 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
- Improving customer satisfaction

4.3.2 The Taxi & Private Hire Licensing policies contribute to priorities:

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

4.3.3 Safeguarding children and vulnerable adults:

Leeds City Council has both a moral and legal obligation to ensure the duty of care for both children and vulnerable adults across all of its services. This cannot be achieved by any single service or agency. Safeguarding is ultimately the responsibility of all of us and depends on the everyday vigilance of staff who play a part in the lives of children or vulnerable adults.

4.4 Resources and value for money

4.4.1 There are no anticipated additional costs to the Section, the work being undertaken as normal areas of development and any training needs being met by fee setting. The information in respect of a support officer for the Enforcement Team being financed by tiered fees on private hire operators would need to be the subject of a separate HR process and require appropriate approvals.

4.5 Legal Implications, Access to Information and Call In

4.5.1 Where an applicant has been refused an operator's licence under the private hire regime, or is aggrieved by any conditions attached to such a licence, he may appeal to the Magistrates Court (section 55(4)).

4.5.2 Although breach is not a criminal offence, where an operator fails to comply with the conditions of its licence, the Council may revoke the licence (section 62(1)). Where an operator is aggrieved by the decision to revoke, there is a right of appeal to the Magistrates' Court (section 62(3)).

4.6 Risk Management

4.6.1 Some of the proposals raised in this report need to be subjected to legal overview and advice which will be undertaken during the consultation periods and ultimately have a significant bearing on the final report.

5 Conclusions

5.1 That consultation and legal advice will help Members form views which can be fully explored in the final report. Officers do feel that the proposed conditions in

respect of 'out of town' issues should be progressed more quickly in the interests of public safety.

6 Recommendations

- 6.1 That Members consider and make appropriate observations prior to further consultation.
- 6.2 Because of the scale of the issues it is considered appropriate that a full 3 month consultation takes place which will enable wider contact with disability groups and partner agencies in respect of the broader issues.
- 6.3 In respect of 'out of town' HCV's there is a potential public safety issue to be addressed at the earliest opportunity and it is proposed that initial consultation should be of one month with a review period of 6 months following implementation.

7 Background documents¹

Equality Impact Assessment

Leeds City Council PHO conditions

Leeds City Council PHD conditions

Leeds City Council PHV conditions

Button on Taxis

Blue Line Taxis v Newcastle City Council

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.

Appendix 1

ITEM 2

CONDITIONS ATTACHED TO THE GRANT OF A LICENCE TO OPERATE A PRIVATE HIRE VEHICLE

1. Any person wishing to acquire a licence to operate a Private Hire Vehicle shall be a fit and proper person and make the application to the Council solely in their name on the prescribed form and pay such fee as prescribed by the Council. Such fee shall not be returnable under any circumstance, save at the sole discretion of the Council.

Every applicant for an Operators licence shall be required to disclose on the application form details of any conviction for any offence, bearing in mind the provisions of the Rehabilitation of Offenders Act 1974. A summary of these provisions is included in the conditions for your guidance.

Every applicant shall in addition to the information specified in the above two paragraphs, provide the name, date of birth and address of any person if the applicant proposes to operate the business in partnership with any other person(s).

Each operator licence issued by the Licensing Authority shall be issued only in the name of the applicant and that person shall be deemed solely responsible as the operator upon the licence being granted and the licence is not transferable from the first mentioned person to another person.

Officer comment: Significant changes proposal in respect of training and management arrangements of the company See paragraphs 3.13 to 3.15 in report.

2. OPERATOR LICENCE

Each operator licence issued by the Licensing Authority shall be valid for such a period as the Licensing Authority may decide.

The current operator licence must be displayed at the business premises to which the licence relates in a prominent position at all times in view of the general public with the exception of such times as the licence is presented to the Licensing Authority for amendment, or it is required to be produced for inspection by an Authorised Officer of the Licensing Authority or a Police Constable.

Officer comment: Change proposal to put limited control on business names.

3. PLACE OF BUSINESS

A licensed operator will only conduct the business from the booking office address specified on the licence, each booking office address requires a separate licence. (NB: Any licensed operator wishing to conduct a business from any address other than that specified on the operator licence shall make application to the Licensing Authority on the prescribed forms which will be regarded by the Licensing Authority as a new application for an operator licence, and the applicant shall satisfy the requirements of the Licensing Authority accordingly). An application on or within the grounds of liquor licensed premises will not be accepted.

The licensed operator shall provide, at the address from which the business is conducted as specified on the operator licence, an enclosed area to which the public have right of access for the purposes of making a booking for the services of a licensed vehicle or awaiting the arrival of a licensed vehicle subsequent to any booking. No operator shall

Appendix 1

cause or permit any such area to be used by them or other persons for any other purpose than that outlined above.

The premises shall be kept clean, adequately illuminated, heated and ventilated and shall conform to any other relevant legal requirements.

All licensed operators shall have in force a Public Liability Insurance policy providing a minimum of £2,000,000 indemnity in respect of any one incident.

All licensed operators shall have in force an Employers Liability Insurance policy complying with the Employers Liability (Compulsory Insurance) Act 1969 covering death or personal injury arising out of any incident during the course of a person's employment.

Officer comment: Any change proposal would be in line with legal and operational advice from LCC Planning Department.

4. OFF STREET PARKING

During the currency of the licence, the operator shall ensure designated off-street parking provision at all times for the number of vehicles being operated.

No licensed operator shall use any land or premises for the said purpose where that operator does not have lawful right of use of that land or premises. The operator, if required to do so by an Authorised Officer of the Licensing Authority or Police Constable, shall produce such documentary evidence as may be reasonably required to establish the operator's lawful right to use such land or premises for the purposes of providing off-street parking provision for private hire vehicles.

Officer comment: Any change proposal would be in line with legal and operational advice from LCC Planning Department.

5. ACCEPTANCE OF BOOKINGS

Every contract for the hire of a private hire vehicle shall be deemed to be made with the licensed operator who accepted the booking, whether or not that licensed operator subsequently provides the vehicle(s).

Officer comment: Significant change proposal. See paragraph 3.31 in the report.

6. RECORD OF BOOKINGS

Each licensed operator shall keep a full and accurate record of every booking of a private hire vehicle in a register, details to include time and date of booking, time required, customer's name, particulars of the journey (from and to), and the vehicle used. These records must be maintained in a bound book with consecutively numbered pages. Operators must be able to identify from their records which private hire vehicle has undertaken any particular job, e.g. call sign = plate number.

The register must be maintained up to date at all times, and shall be retained at the address from which the business is conducted as specified in the operator licence for a period of not less than 12 months from the date of the last entry in the register.

The register(s) shall be available at any time without notice by an Authorised Officer of the Licensing Authority or a Police Constable who shall be empowered to take away the register(s) from the premises if required.

Appendix 1

Licensed operators who wish to operate a computer booking record system **must** have the approval in writing of the Licensing Authority, and must adhere to all other relevant conditions.

Officer comment: Significant change proposal see paragraphs 3.31 and 3.32 in the report.

7. SPECIFIED VEHICLES

No licensed operator shall operate any private hire vehicle other than those which have been listed by an Authorised Officer of the Licensing Authority on the Operator Vehicle Schedule (Form OPVS). Any alteration to the form OPVS shall only be made by an Authorised Officer of the Licensing Authority.

When a licensed operator ceases to operate any vehicle specified on the OPVS, the operator shall forthwith, and in any event not later than 72 hours, notify the Licensing Authority for amendment by an Authorised Officer.

Officer comment: Significant change proposals contained.

8. SPECIFIED DRIVERS

The operator shall notify the Licensing Authority of each and every private hire driver employed or used by the operator in his Operator Driver Schedule (Form OPDS). Where an operator ceases to employ or use any licensed private hire driver, the operator shall forthwith, and in any event within 72 hours, notify the Licensing Authority in writing and present the form OPDS to the Licensing Authority for amendment by an Authorised Officer. The private hire driver licence must be returned to the driver.

Each operator will retain at the address from which the business is conducted, the private hire driver licence of every licensed private hire driver employed or used by that operator.

The private hire driver licences shall be available at all times for inspection by any Authorised Officer of the Licensing Authority or Police Constable who may take the licence(s) away from the premises if so required.

Every private hire driver licence retained by the operator must display the trade name and operator licence number relating to his licence.

Officer comment; Significant changes in the case of 'out of town' drivers. See paragraph 3.23 in the report.

9. RADIO EQUIPMENT

No licensed operator shall use any radio equipment for the purpose of conducting the business specified in the operator licence, other than equipment approved by the Department of Trade and Industry (DTI) under the provisions of the Wireless Telegraphy Act 1949. The operator shall produce such licence for inspection if required to do so by any Authorised Officer of the Licensing Authority or Police Constable.

Officer comment: General update only.

10. ADVERTISING

Appendix 1

No operator may use the word **TAXI** or **CAB** or **HACKNEY CARRIAGE** or any combination or derivation thereof in any advertising manner in any media, and any such advertising shall include the words Licensed Private Hire.

Where any operator in the course of business uses the trading name of business address specified on the operator licence to offer the services of a Hackney Carriage to the general public, the operator shall not use the words **TAXI** or **CAB** or **HACKNEY CARRIAGE** or any combination or derivation thereof in any advertising manner unless the number of Hackney Carriages that the operator can offer (without engaging the services of any other company or trading concern) is not less than 49% of the number of licensed private hire vehicles specified on the form OPVS.

Officer comment: No significant change. See paragraph 3.26 in the report.

11. STANDARD OF SERVICE

The operator shall provide a prompt, efficient and reliable service to members of the public at all times and shall ensure that when a private hire vehicle has been hired to be in attendance at an appropriate time and place, that vehicle shall, unless delayed or prevented by sufficient cause, punctually attend at that time and place.

12. GUIDE DOGS

Every proprietor, driver and operator of a licensed private hire vehicle shall ensure that guide dogs are carried within the passenger compartment of the vehicle on request.

13. LOST PROPERTY

All property carried or articles of any description left by any person booking or waiting for a private hire vehicle at the address from which business is conducted shall forthwith, and in any event not later than 72 hours, be delivered to:

The Taxi and Private Hire Licensing Section
225 York Road Leeds LS9 7RY.

Officer comment: Change proposal. See paragraph 3.8 in report.

14. NOTIFIABLE ALTERATIONS

Place of Residence - During the currency of the licence, the operator shall notify the Licensing Authority in writing of any temporary change of residence which is for a period in excess of 21 days. In either case, the Licensing Authority shall be notified in writing within 7 days of such change taking place.

Radio Equipment - Where any licensed operator is granted a licence by the DTI to use radio equipment, and where that equipment is to be used for the purposes of conducting the business specified on the operator licence, the operator shall within 7 days of the grant of a licence issued by the DTI notify the Licensing Authority in writing stating the serial number and letters of the licence and any transmission frequencies authorised for use. The operator shall also notify the Licensing Authority in writing of any authorised change in transmission frequencies or of any additional frequencies within 7 days of such changes taking place.

Convictions - During the currency of an operators licence, the person named on the licence shall forthwith, and in any event within 7 days of any conviction, notify the Licensing Authority in writing of such conviction(s).

Appendix 1

Disposal of Business - Each operator, when disposing of any business interest, shall within 14 days give notice in writing to the Licensing Authority that the business registered in his/her name has terminated.

15. COMPLAINTS

Operators on receiving any complaint of a serious nature regarding any person licensed by the Authority must immediately inform the Taxi and Private Hire Licensing Section as to the identity of the person involved and the nature of the complaint.

Officer comment: Change proposal to expand and more closely monitor and enforce the condition. See paragraph 3.7 in the report.

16. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976, PART 2

All licences in connection with the driving and operation of private hire vehicles and all conditions attached to the grant of such licences are issued by the Licensing Authority in accordance with the provisions of the 1976 Act.

Each operator shall make themselves aware of the provisions of the 1976 Act and any other relevant legislation including the Licensing Authority conditions attached to the grant of a private hire operator, driver or vehicle licence.

PLEASE NOTE THAT SHOULD YOU FEEL AGGRIEVED BY ANY OF THE CONDITIONS IMPOSED ON THE LICENCE, YOU HAVE THE RIGHT OF APPEAL TO A MAGISTRATES' COURT WITHIN 21 DAYS FROM THE DATE WHEN THIS LICENCE WAS ISSUED TO YOU.

Appendix 2

Operator Trading Name	Owned and Operated by Operator	Operated but not owned by Operator	Total Cars Operated by operator	Booking Records
1st Apollo Cars.	0	37	37	Electronic
T & T Travel	0	0	0	Paper based
T & T Travel	1	0	1	Not Known
Interline	0	41	41	Electronic
Deighton Cars	1	0	1	Paper based
Wetherby Cars	3	2	5	Paper based
A.S.A.P.	1	1	2	Paper based
Local Cars	15	41	56	Electronic
Swillington Cars Ltd	0	2	2	Paper based
Star / SupremeLine	0	45	45	Electronic
New Armley Cars	1	12	13	Paper based
Wheels	45	239	284	Electronic
Platinum Licensed Private Hire	0	2	2	Electronic
Intime Private Hire	0	3	3	Paper based
Club Cars	3	38	41	Not Known
M C Chauffeurs - Executive	0	0	0	Paper based
Airlink	0	0	0	Paper based
Streamline - Telecars	0	0	0	Not Known
Time Line.	2	27	29	Electronic
Amber Cars	109	641	750	Electronic
Call A Car .	0	1	1	Not Known
Apex Cars	1	12	13	Paper based
Dees	0	4	4	Paper based
First Lady & Homelinks	2	1	3	Not Known
City Cars	0	18	18	Paper based
Its Roadrunners	0	163	163	Electronic
Geo Cars 3	6	59	65	Electronic
Highways Private Hire	0	19	19	Paper based
A B Cars.	1	35	36	Electronic
Parkways.	0	48	48	Paper based
Otley Private Hire	1	9	10	Not Known
Morley Central Line	1	49	50	Electronic
SJK Travel2Airport.com	12	114	126	Electronic
A Metro Cars	0	22	22	Electronic
Bramham P.H.	1	0	1	Paper based
Aireline/Holbeckline	1	40	41	Not Known
Ladyline/Phoenix Cars Leeds Ltd	7	6	13	Not Known
Enterprise Cars.	1	0	1	Paper based
Espley Travel LTD	0	0	0	Not Known
Local Cars	0	0	0	Not Known
Rymie Travel	0	0	0	Not Known

Appendix 2

Yeadon Licensed Private Hire	0	16	16	Electronic
Morley Budget Cars	8	13	21	Electronic
Fly Away	0	1	1	Paper based
A1 LEEDS	0	13	13	Electronic
Elite L.P.H	1	0	1	Paper based
Just Bus	3	0	3	Paper based
Stanningley Cars Ltd	0	87	87	Not Known
Royal Cars/New Royal Cars	1	54	55	Electronic
Pudsey - B - Line	6	53	59	Electronic
Abbey Cars	3	2	5	Electronic
Jerome Private Hire	1	0	1	Paper based
Drive Time	1	0	1	Paper based
Gee Gee Cars	1	71	72	Electronic
Airport Services	0	1	1	Paper based
Network Cars	3	25	28	Electronic
Easy Travel	20	25	45	Not Known
Atlas Cars	3	7	10	Electronic
Chevin Cars	1	0	1	Paper based
Rhodes Ahead	1	0	1	Not Known
Premier Licensed Private Hire	4	302	306	Electronic
Stanningley Coaches Ltd	8	0	8	Paper based
Morley Cars	1	59	60	Electronic
New Furlongs	2	12	14	Paper based
Speedline	15	132	147	Electronic
Blueline	0	24	24	Electronic
South Leeds & Hunslet Cars Ltd	3	143	146	Electronic
Ardsley Cars	1	0	1	Paper based
New Yellow Cars	1	0	1	Paper based
Rothwell Line	4	20	24	Electronic
Kirkstall Cars	0	25	25	Paper based
New City Wide	0	0	0	Not Known
L R Lofthouse Cars	1	0	1	Paper based
Ace Cars Leeds Ltd	15	109	124	Not Known
Threesixteen Airport & Exec	1	0	1	Paper based
All Aboard Travel	0	0	0	Not Known
G & M Cars	0	42	42	Electronic
Beeston Line	5	45	50	Not Known
Beeston Line ..2	0	0	0	Not Known
T Line	4	39	43	Electronic
Arrow	17	213	230	Electronic
Arrow LBA	0	0	0	Electronic
Rollinson Safeway Ltd	0	66	66	Electronic
Total:	350	3330	3680	

	<p>Section</p> <p>225 York Road Leeds LS9 7RY.</p> <p>This should be given to the local police station and not us.</p>		
<p>Licensing Officer</p>	<p>Passengers make their bookings through the operators, and the operators pass the details of the bookings on to the drivers. Operators should be obliged in the conditions of holding an operators licence to give drivers enough detail about the passenger to enable the driver to pick up the correct passenger. The driver must be told the name and destination of the passenger, as well as their location.</p> <p>Private Hire drivers need to be given this information a) in order to avoid being in breach of their licence conditions (plying for hire) and b) for their own safety.</p> <p>Drivers with experience of the trade raise this issue in the PH training seminar as a matter of concern. We insist that drivers ask 3 questions when confirming their booking with the passenger: 1) which operator did you book with?; 2) what is your name?; 3)</p>		

	<p>what is your destination?. Operators must give the drivers sufficient information to check the answers to questions 2 and 3 in order to confirm that they are picking up the correct passenger. It appears that the operators may fail to do this.</p> <p>I would like to repeat:</p> <ul style="list-style-type: none"> • all operator licence holders should attend and pass all current PH training and tests <p>plus operators should</p> <ul style="list-style-type: none"> • Provide clear written H&S guidance for their drivers • Establish clear lines of communication with drivers and pass down information from the Council – eg about the extra day customer care additional training. No operator seems to have passed this info down to the new applicants • Be informed when their drivers are in breach of their conditions. A record should be kept of drivers who breach conditions and which base they work at, and this information 		<p>Training proposal in report.</p> <p>Proposal in report.</p> <p>Proposal in report.</p>
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	<p>should be easily accessible.</p> <ul style="list-style-type: none"> • Pay a licence fee proportionate to the vehicles operating from their base • Be encouraged to behave responsibly to drivers; not take on more drivers than the base can support • Be committed to the Equality Act • Support PH driver and vehicle conditions • Let only Leeds licensed PH drivers work from their base <p>At the moment, there seems to be a lot of bad practice, judging from discussions at PH seminars. Certain operators seem to tell drivers they can wait at a particular venue without a booking, others accept bookings from known 'runners' and tell the driver to ask for the fare up front. Some keep inadequate booking records, cover for drivers with poor accident records, discriminate against drivers on ethnic grounds, have no commitment to disabled passengers, etc. It might be argued that market forces take care of such things, but they don't. Operators seem to be able simply to collect rent and have very little responsibility</p>	<p>Not enforceable in law.</p>	<p>Proposal in report.</p> <p>Proposal in report.</p> <p>Proposal in report.</p>
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	<p>towards people working from their base and to the passengers.</p> <p>We should be keeping an eye on operators as well as on drivers. If operators had more responsibility and tighter conditions, it would be fairer all round for the trade.</p>		
Euro Cabs	<p>PRIVATE HIRE OPERATOR CONDITIONS:- <u>1 PLANNING</u></p> <p>PLANNING DEPARTMENTS – The Planning application when approved MUST include the maximum number of vehicles that can be operated from that base. The attached conditions must be similar as attached to any other business e.g. Fast food, Night Club or any other Licenced business and include things such as noise pollution, obstructions caused by illegal parking i.e. parking in places other than their designated parking space. Officers should have regular contact with the Licensing Committee, VLE Officers and trade members from both Hackney Carriage and Private</p>	Referred to in report.	

	<p>Hire. There should be clear consequences for any breach of these conditions ranging from fines to temporary suspension and Revocation of the Planning Consent for serious or continuous breaches of the conditions</p> <p>MAXIMUM VEHICLES - The maximum amount of vehicles that can be operated from any PH office should be clearly stated on the planning approval. The number of vehicles registered to any Private Hire Operator then cannot exceed the number stated on the PHO License. This number would be controlled by the VLE department and any operator would not be allowed to register new vehicles to operate from their base when the maximum number has been reached, any new applicant would have to find a different Private Hire Company to work for. Private Hire operators would be allowed to increase their vehicle numbers when extra parking spaces have been approved by the planning department.</p> <p>APPLICATION TO INCREASE</p>	<p>Referred to in report.</p>	
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	<p>NUMBER OF VEHICLES – The Operator can apply to increase the number of vehicles operating from their base by submitting an application to the planning department. The approval would depend on three conditions:-</p> <ol style="list-style-type: none"> 1) Attaching proof/application for further parking spaces which has/ or is approved by the planning department 2) A business case whereby the company has a significant increase in their business thus requiring more vehicles. The proof must be document proof i.e. record of bookings or copy of contract approval with a major company, along with a clearance from VLE that there has not been any complaints about the company and its drivers that have resulted in illegal parking or plying for hire offences and subsequent suspension or revocation of drivers and or vehicle licences since the approval of the initial planning application. The application will include any 	<p>Referred to in report.</p>	
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	<p>breaches of attached conditions like litter or noise pollution complaints in and around the base office.</p> <p>3) The Operator and the business have not been involved in any illegal or criminal activity and meet the "Fit and Proper Person" criteria.</p> <p>THE INCREASE IN NUMBER OF VEHICLES SHOULD ONLY BE ALLOWED IF ALL CONDITIONS HAVE BEEN MET.</p> <p><u>PRIVATE HIRE OPERATOR PROPOSALS</u></p> <p>All Private Hire Operator's should be made accountable for their actions and the actions of their drivers and this can only be achieved by allowing a managed growth of the good operators and financial penalties for the offenders and suspension or revocation of Operators Licence for serious or repeat offenders.</p> <p>THE NUMBER OF VEHICLES - that can operate from a base must be linked to the amount of parking</p>	<p>Generally agreed and there are training proposals in the report but when a PHD's not working, PHO's cannot be accountable.</p> <p>Refer to earlier responses.</p>	
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	<p>spaces available and approved by the planning department to the above conditions listed under planning proposals. For a new company, they must operate for at least one year to the initial conditions and can only apply to increase the number of vehicles at end the first year. This should only be allowed if no complaints of licensing or operating conditions or planning conditions have been received. The Local Government (Miscellaneous Provisions) Act 1976 Section 48 does state that Licensing authorities cannot limit the number of licences issued but if an operator has reached the maximum number available to operate from their office then the new applicant or a Private Hire vehicle wanting to operate from that base will be asked to find another base to work for or from.</p> <p>THIS NUMBER OF VEHICLES OPERATING FROM A BASE - can only be increased if further parking spaces are approved by the planning department or the company has</p>	<p>Refer to previous responses and body of report.</p>	
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	<p>operated within their planning and operating conditions and can present a case of increase in business. Any vehicle then in breach of parking at other than their designated place or guilty of plying for hire, the Private Hire Operator then would not be allowed to replace that vehicle or vehicles to compensate his/her loss and also would not be allowed to apply for an increase in the number of vehicles for at least one year after the expiry of the licence during which the offence was committed. The increase then will be conditional on providing extra parking spaces that have been approved by the planning department.</p> <p>THE CONDUCT OF THE PRIVATE HIRE OPERATOR - and its management team or staff must also be taken into consideration when approving any increases in number of vehicles allowed to operate from or for that company. The conduct must include the “Fit and Proper Person” criteria as well as any other Licensing breaches, e.g. illegal type or forms of</p>	<p>This is not possible within the Local Government (Miscellaneous Provisions) Act 1976.</p>	
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	<p>advertising, like use of word Taxi to advertise or promote their business, Touting for business, not effectively or professionally dealing with complaints from other companies or members of public must apply to ALL COMPANIES and not a select few.</p> <p>FOR EXISTING SMALL AND LARGE OPERATORS - Their existing number of vehicles will be regarded as the maximum number allowed to operate from their base. They will not be allowed to replace any vehicle or driver that has been suspended or had their licence revoked. The previously proposed criteria for managed growth will apply and no increases in number of vehicles will be allowed if offences which have led to the suspension or revocation of a licence or conduct of the management or staff of a company have been in breach of Licensing Acts/Conditions.</p> <p>SATTELLITE PARKING – It has plainly been made clear in case laws namely, CHORLEY BOROUGH COUNCIL v THOMAS and COGLEY v</p>	<p>Refer to earlier responses.</p>	
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	<p>SHERWOOD that any vehicle parked in a place where it can be viewed by members of public is deemed to be plying for hire. Therefore all Private Hire vehicles MUST return back to their designated off street parking place and any vehicle seen not to be parking in their designated parking place should be suspended, for a fixed period and this suspension should be on a rising scale and ending on revocation of the Licence for continuous offenders. The Private Hire Company who the driver is working for should not be able to replace another vehicle to cover for the suspended vehicle during this period. Where vehicle license has had its licence revoked then no new vehicle will be allowed to register to work for that company to compensate for this vehicle</p> <p>PLYING FOR HIRE – Any Private Hire Operator will not be able to replace any vehicle that has been suspended or revoked for plying for hire.</p>	<p>Considered to be unlawful – restriction of trade.</p>	
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	<p>ANY OTHER REASONS – Any Operator, driver or vehicle that has been found to be involved any illegal activity where the Operator has had direct or indirect involvement or it was within their powers to control their or the activities of the driver/s and has led to the suspension or revocation of the drivers the Private Hire Operator cannot replace the suspended or revoked vehicle. The Planning consent would be cancelled if the Operator is has been involved in any illegal activity as they would not then be “a fit and proper person” to hold a Private Hire Operators Licence.</p>	<p>Considered to be unlawful – restriction of trade.</p>	
<p>Licensed driver</p>	<p>Operators license Currently operators do not have enough provision for parking vehicles. Fleets as big as 500 have parking only for 50 vehicles. As drivers we have to park vehicles on streets and the satellite parking is normally non existent . Operators are business men who are after profits they take on more vehicles then required and then the drivers get tickets for parking in city centre and other places where they are not supposed to park .</p>	<p>Refer to previous responses.</p>	

	<p>Planning should look into this matter and maybe apply a congestion charge if the operators haven't got sufficient on site parking or satellite parking. Satellite parking is a gimmick to get around planning issues. Every 2 to 3 years planning should get involved when the operators license is up for renewal. Planning department should be informed of number of vehicles being operated by an operator every year and the operators license fee should be set accordingly.</p> <p>All vehicles should have stickers displaying if you haven't booked the vehicle you are not allowed to travel and you are not insured .</p> <p>Any vehicle/ driver who is caught plying fir hire the operator should also get a fine as well this will automatically make the operator more vigilant about who he is taking on and it would get rid of a lot of cowboy operators and badge holders. The operator could take a deposit of whatever the fine the council will set upfront from the driver when they join that operators fleet.</p> <p>Also if vehicles are constantly caught plying for hire from a particular firm or causing undue congestion their planning and operators license should be reviewed and penalties handed out</p>		
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	<p>as appropriate. The operator should invest in parking if it has major work in areas other than where it's base is or where he does not have satellite parking facilities. The Leeds city centre should be a non waiting area unless the operator is paying a congestion charge or has it's own designated off street parking.</p>		
<p>Unite the Union – Leeds Hackney Drivers Branch 302/3</p>	<p><u>Private Hire Operators Conditions.-</u></p> <p>Unite believes that the conditions in place currently are set to a minimum level or both responsibility and accountability.</p> <p>Responsibility where drivers still do not maintain lawfulness by applying the conditions set down by LCC and those to which they are supposed to operate under of the LGMP 76.</p> <p>Accountability where operators are freely and without regard for public safety, allowing their drivers to roam streets looking for work as they cannot manifest such work to potentially cover the numbers of vehicles in their fleet. Additionally, that there is no move from operators to comply with the condition of item 4. In the local set</p>	<p>Refer to previous responses and body of the report.</p>	

	<p>conditions of <i>“During the currency of the licence, the operator shall ensure designated off-street parking provision at all times for the number of vehicles being operated”</i>.</p> <p>Various other issues become known on review of these conditions and where quoted for specific reason, the addition of improvement garnered from other sources as mentioned will be noted in bold italics.</p> <p>Condition 2: Operator Licence.-</p> <p>Unite fully agree with this section in principal. However, there is specific room for improvement with amendments and or additions as such:</p> <p style="padding-left: 40px;">Reference to an office or ‘base’ or ‘business premises’ as is more commonly known should now have an addition to read as <i>‘operating centre’</i> as defined in <i>PVH(L) 98 C 34. Sec 1 (5) – ‘In this Act “operating centre” means premises at which private hire bookings are accepted by an operator’</i>.</p> <p>Unite believes the following</p>		
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	<p>should be additional to LCC conditions as laid down in PHV(L) 98 C 43. Sec 15 (3(a,c,d,e,f)).</p> <p>Unite also believe in the introduction of a culpability test based on a totting up scheme for operators who allow their drivers to flout the law . This would have to be looked at in greater detail, but such a scheme could be “ <i>where an operator knowingly allows their drivers to roam and ply for hire without or with their express consent, should be applied the ‘fit and proper’ test and equally for every driver found to be in non-compliance with those conditions, the operator should be penalised by either the removal of that vehicle for the period of 1 week or by means of a fixed penalty notice payable by the licensed operator themselves, at a rate to be determined on a scale, dependent on the frequency of the drivers in that operating centre being accountable and being caught breaking the law by either enforcement officers,</i></p>	<p>Please refer to body of the report regarding legality and earlier responses.</p>	
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	<p><i>Police officers or Parking enforcement officers". This would serve to put tighter regulation on drivers and operators with greater accountability held on the operator individually.</i></p> <p>Condition 3: Place of Business.-</p> <p>Unite fully agree with this section in principal. However, there is specific room for improvement with amendments and or additions as such:</p> <p>Reference to paragraph 1: an addition to this paragraph should now include <i>'The holder of a Leeds PHV operator's licence shall not in Leeds accept a private hire booking other than at an operating centre specified in his licence' – amended wording from PHV(L) 98 C 34. Sec 4 (1)</i></p> <p>Reference to paragraph 1: Unite firmly believes that the last sentence of this condition could and should be applied to Leeds Bradford Airport and the Private Hire working within</p>		
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	<p>such vicinity of such condition being given that the operating land is tendered, owned privately and is operated by one sole business. Where such condition is in place, enforcement should apply to the operator to remove such vehicles from the vicinity. Unite believes the addition of the following should be applied. <i>'If a Leeds PHV operator ceases to use an operating centre specified in his licence, he shall preserve any record he was required by this section to keep there for such period as may be prescribed' – amended wording from PHV(L) 98 C 34. Sec 4 (4)</i></p> <p>Condition 4: Off Street Parking.-</p> <p>Unite fully agree with this section in principal. However, there is specific room for improvement with amendments and or additions as such:</p> <p>Unite fully believe and wholly support the obligation of a Private Hire Operator to</p>	<p>Largely dealt with in report.</p>	
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	<p>demonstrate their culpability in providing an equal number of 'off-street' parking spaces as defined in paragraph 1, but should also be commensurate of their number of vehicles operating in entirety and not operationally within any given eight hour period as laid down by the European Working Time Directive, which is not applicable to Taxi or Private Hire drivers in the UK currently. Unite believe that any application or renewal should not obviate such evidence at such time. It should be made clear that in the presence of a lack of evidence to support such, then LCC should make it perfectly clear that no licence will be granted or renewed. It should be made clear that a Hackney Operating licence does not fall into this arena as a Hackney Carriage does not carry out it's sole place of business from the operating office to which it may be sited. Unite fully agree with paragraph 2, but believe there should be the inclusion into the</p>	<p>Unsure what this means but refer to existing application process on the internet and the report when published.</p>	
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	<p>conditions and wording to such extent of: <i>'it must be shown at renewal or application, the agreement, which is in place or in force at such time to allow said number of vehicles operating under such licence, to use the aforesaid land or premises as agreed between the operator and the owner of such land or premises'</i>.</p> <p>Unite must make aware the legal ruling currently in place, which was a directive from the Royal Courts of Justice in 2000, by the sitting Judges, Mr Justice Bell and Mr Justice Pill, under the specified 'Eastbourne Ruling', which is in specific in its outline as to the view ability of Private hire Vehicles in a public or private place. Such wording is <i>'No Private Hire vehicle must be allowed to stop or wait on any land both public or private so as to give the travelling public the impression that they are immediately for Hire and Reward'</i>. On this basis, Unite feels very strongly that this must be included into the new conditions by LCC and</p>	<p>See earlier response.</p> <p>Members will receive informed legal advice in the final report.</p>	
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	<p>be made abundantly clear to operators, having first applied for a license for such operational activities and commensurate parking.</p> <p>Condition 5: Acceptance of Bookings.-</p> <p>Unite fully agree with this section in principal. However, there is specific room for improvement with amendments and or additions as such:</p> <p>Unite firmly believes that each operator should be solely culpable for their own drivers carrying out specific work which has been made clear to them by customers wishing to use their service. Under no circumstances should any operator be allowed to 'Baton Pass' specific jobs to sub-contracted companies. This causes confusion to the end user and removes all accountability from the originator operator. The conditions should reflect this belief and Unite would fully support this as a new additional</p>	<p>Proposal in conflict with existing legislation.</p>	
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	<p>condition. <i>“A Private Hire vehicle must be associated with a licensed private hire operator and may only be used on private hire bookings accepted by that licensed operator” – Applied by LVCC Sec 3 (c)</i></p> <p>Condition 6: Record of Bookings.-</p> <p>Unite fully agree with this section in principal. However, there is specific room for improvement with amendments and or additions as such:</p> <p>Unite believes that there is potential for additional scope in paragraph 2 in so far as, <i>‘where a licence is obtained for an operating centre, then given that the licence for such operating centre may be on a temporary basis, the main licence attributable to the main owner/s should carry the proviso that such records must be retained at that initial main licence operational office for a period of no less than 12 months’.</i></p>	<p>Members will receive informed legal advice.</p>	
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	<p>Condition 7: Specified Vehicles.-</p> <p>Unite fully agree with this section in principal. However, there is specific room for improvement with amendments and or additions as such:</p> <p>Unite believe that there is a distinction flaw within the conditions currently set down by <i>LCC</i>, which currently flies in the idea of the LGMP 76 Sec 48 (A(ii)) and that of PHV(L) 98 C 34. Sec 7 (2/iii) in so far as: <i>“is not of such design and appearance as would lead any person to believe that the vehicle is a licensed Hackney Carriage/London cab”</i>. Unite firmly believe that currently where vehicles are operating in Leeds, where there are clear definite similarities between both those of the Hackney carriage fleet, that this practice should be removed and made abundantly clear to the operators via the conditions. Irrespective of numbers, the suggestion that a vehicle of the</p>	<p>In effect this would remove the majority of wheelchair accessible vehicles in the PH fleet.</p>	
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	<p>same design and appearance can be permissible for use as a private hire is bewildering. Newcastle City Council Licensing Authority currently applies a wholly black fleet to its hackney carriages and that of many others including Hull City Council and Liverpool to mention but three. There is a breakdown of similarities in the use of such vehicle though. Liverpool does not allow such vehicles in Private Hire, nor too do Hull or Newcastle. Where private hire vehicles are used and are of construction for wheelchair accessibility in these cities, they must not be the same colour, appearance or design. This must be addressed by LCC with immediate effect in both conditions set down to operators and drivers and in a direct change in licensing policy by LCC. Unite believes there are key significant omissions from the list of conditions which should be added and should be maintained by drivers and</p>	<p>The issue of all black HCV's was discussed at a recent HC forum and overwhelmingly rejected.</p>	
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	<p>operators alike. They are:</p> <p><i>(A) Fitted with a minimum of four doors and four/five wheels – Applied by LVCC Sec 2 (a).</i></p> <p><i>(B) Constructed to carry at least four passengers and not more than eight passengers, in addition to the driver. Where passenger seating is comprised of bench seats, a complete length of 406 mm (162) measured in a straight line along the front of the seat, must be allowed for each passenger – Applied by LVCC Sec 2 (c).</i></p> <p><i>(C) Equipped with an efficient fire extinguisher of one of the following type, mounted in such position as to be readily available for use: (1) Halon, (2) Carbon Dioxide 2.5kg, (3) Dry powder 3kg – Applied by LVCC Sec 2 (e)</i></p> <p><i>(D) Carry a spare wheel, capable of use on either axle, with at least the minimum legal depth of tread, a wheel nut spanner and jack – Applied by LVCC Sec 2 (f)</i></p> <p><i>(E) The door windows must be constructed so that they can easily be raised or lowered by</i></p>	<p>This consultation is aimed at PHO's. This information relates to PHV's which was the subject of Member approval earlier in the year.</p>	
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	<p><i>the hirer and all windows must be etched with the registration number of the vehicle – Applied by LVCC Sec 2 (g)</i></p> <p>Condition 8: Specified Drivers.-</p> <p>Unite fully agree with this section in principal. However, there is specific room for improvement with amendments and or additions as such:</p> <p>In addition to paragraph 2, Unite believes that the following wording should be added to such paragraph: <i>“Each operator will retain at the operating centre address, from which the licence is applied and to which business is conducted, the Private Hire Drivers Licence and or Hackney Carriage Driver and vehicle licence employed or used by that operator and operating centre”</i>.</p> <p>In addition to paragraph 4, Unite believes that the following wording should be added to such paragraph: <i>“Every Private Hire Driver Licence or Hackney Carriage Driver Licence should</i></p>	<p>?</p>	
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	<p><i>be retained by the operator and must display the trade name or operating centre name and operating licence number relating to his licence”</i></p> <p>Condition 9: Radio Equipment.-</p> <p>Unite agree with this licensing condition.</p> <p>Condition 10: Advertising.-</p> <p>Unite fully agree with this section in principal. However, there is specific room for improvement with amendments and or additions as such:</p> <p>Unite believe there is scope for additional text to be applied in this section as prescribed in <i>PHV(L) 98 C 34. Sec 31 (2(a,b))</i>.</p> <p>Unite also believes that in no circumstances should corporate advertising be allowed onto any Private Hire vehicles and that this should also form part of the conditions list.</p> <p>Unite also believes that under</p>	<p>Please refer to existing PHV conditions.</p>	
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	<p>no circumstances should Private Hire vehicles be allowed to carry advertising such as roof signs as this is believed to be a clear definitive between Hackney Carriage and that this should also be entered into the licensing conditions list. As defined in <i>LVCC Hackney Carriage and Private Hire Compliance Testing Standards 2011</i> – “it is hereby expressly stated all other signs are expressly prohibited, including roof signs, any other illuminated or fluorescent signs or any sign, which consists of or includes the word “TAXI” OR “CAB”.</p> <p>Unite believes that where a meter is fitted to such private hire vehicle, it should in no way carry any signage as to mislead the passenger into thinking that it is either a Taxi-Meter or that it is in fact controlled or fares set by LCC. Under this proviso, Unite believes that the best way to move on this issue is that all private hire vehicles must have their meters removed and fall in line with</p>	<p>Please refer to relevant legislation.</p>	
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	<p><i>PHV(L) 98 C 34. Sec 11 (1)</i> and have amended wording as such, <i>“No vehicle to which a Leeds PHV licence relates shall be equipped with a taximeter”</i>. This would serve to completely distinguish between a Hackney carriage and Private Hire. Reference to a Meter is defined in <i>TPCA 47</i>, which relates to Hackney Carriages ONLY.</p> <p>Condition 11: Standards of Service.- Unite agree with this licensing condition.</p> <p>Condition 12: Guide Dogs.- Unite fully agree with this section in principal. However, there is specific room for improvement with amendments and or additions as such:</p> <p>Unite believes there should be an addition to the singular paragraph as such reworded: <i>“Every proprietor of a licensed Private Hire or Hackney Carriage thus working and operating with the operator of a</i></p>	<p>Primary legislation and existing PHD Conditions apply.</p>	
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	<p><i>licensed Private Hire Operating centre under their licence, should ensure that guide dogs are carried within the passenger compartment of the vehicle requested without question”.</i></p> <p>Condition 13,14,15 & 16.-</p> <p>Unite agree with these sections and do not wish to add any further comments</p>		
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Report of Head of Licensing and Registration

Report to Licensing Committee

Date: 17 December 2013

Subject: Introduction of three yearly Disclosure and Barring Service checks on Hackney carriage drivers, private hire drivers, Hackney carriage proprietors and private hire operators

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. Currently the Taxi and Private Hire Licensing Section conducts a Disclosure and Barring Service (DBS) Enhanced Disclosure on all drivers at the point of application and may also require existing licensed drivers to undertake a DBS disclosure in other circumstances.
2. An amendment is required to the policy to stipulate that a DBS check must be undertaken at specific intervals.
3. Department of Transport (DfT) best practice guidance of March 2010 states it would be best practice for disclosures to be sought every 3 years in respect of licensed drivers.
4. This report is to inform Members of the current position on the proposals to introduce three yearly disclosures undertaken by the DBS.

Recommendations

5. That Members note the information in this report and approve the introduction of three yearly disclosures on all existing licence holders and new applicants to the trade, noting that minor administrative changes may be made, as the policy develops, under delegated decisions.
6. That Members note and approve that a DBS check is a re-requisite to the grant or renewal of a Hackney carriage driver, private hire driver, Hackney carriage proprietor and private hire operator licence.
7. That Members make any observations they may have.

1 Purpose of this report

- 1.1 For Members to consider officer recommendations for the introduction of three yearly DBS disclosures, the potential impact upon licence holders and the potential resource implications for the Taxi and Private Hire Licensing Section.

2 Background information

- 2.1 Members will recall from the report presented to the Licensing Committee in October 2012 that the information in a DBS disclosure is vital in the decision making process to ensure the Council meets its statutory requirement to ensure all drivers are a fit and proper person.
- 2.2 At its meeting in October 2012 and subsequent meeting in May 2013, Members deferred the decision to implement more regular criminal records checks until further information on a new on-line process was available.

3 Main issues

- 3.1 As outlined in the previous report presented to the Licensing Committee in October 2012, Officers became aware of an alternative online Update Service being introduced by the DBS. The DBS introduced this service in June 2013 (Appendix 1).
- 3.2 In addition, since June 2013 the Council's Business Support Centre (BSC) has explored moving away from the submission of DBS application forms manually, to using an e-bulk system via a third party supplier. There is a corporate drive to utilise such a system to undertake all DBS checks carried out by the council, including those at Taxi and Private Hire Licensing.
- 3.3 The use of an e-bulk system potentially means less officer administration time as applicants are able to submit their DBS application online and only attend council offices for the verification of their identity documents. If applicants do not have internet access, the application may be submitted using a PC located at Taxi and Private Hire Licensing.
- 3.4 The e-bulk system would also provide an electronic response within 48 hours and will give an indication as to whether the DBS check was clear. To ensure an audit trail is maintained, officers at the Taxi and Private Hire Licensing Section would remain reliant on the applicant presenting their DBS certificate to begin the decision making process.

- 3.5 The BSC signed a contract with a third party supplier in October 2013 and it is anticipated that they will go live with the new system in January 2014.
- 3.6 The BSC and officers are keen to move forward with the utilisation of the e-bulk system. It is anticipated that the BSC will be able to provide system access and training to enable 3 yearly checks to be introduced from April 2014.

Potential Costs – 3 yearly checks at Taxi and Private Hire Licensing

- 3.7 If the Taxi and Private Hire Licensing Section commenced the process of 3-yearly DBS disclosures in-house at the time of renewal, there would be an additional cost to licensed drivers due to the administrative process that would need to be in place. This would consist of the arranging of appointments, conducting interviews and dealing with the subsequent administrative issues.
- 3.8 This process could not be managed within the existing staffing structure and would require additional resources as there are 894 licence holders alone who have not had criminal records check prior to the year 2000.
- 3.9 For the Taxi and Private Hire Licensing Section to continue to undertake DBS checks and increase these to three yearly, the additional cost to an individual driver would be £66.50 every three years. This is prior to the renewal of their licence and consists of the DBS application fee (£46.50) plus the administration cost of 2 additional staff (£20), please refer to Appendix 2.

DBS Online Update Service

- 3.10 In addition, at the time of submitting their DBS application online, Licensing Officers would be able to assist with registering applicants for the online update service if the applicant wished to register¹. This would result in an annual charge of £13 to the applicant but the potential to never have to undertake a further enhanced disclosure at a further expense. This would see a significant saving to those drivers returning a clear update check every year at the time of their licence renewal.
- 3.11 A further enhanced disclosure would not be required unless the update service flagged up that something had been added to the individual's record. The majority of drivers would only have to pay the annual registration fee.
- 3.12 There is also the potential that if an individual has already undertaken an enhanced disclosure with another employer and registered for the online update service, the council can use their unique registration number to check their record without the requirement to undertake a separate DBS check. Individuals must consent to this and the previous disclosure must have been enhanced.
- 3.13 Additional costs were a significant area of concern raised by the trade during the consultation and utilising the BSC e-bulk system and the online update service has the potential to address this and reduce the need for additional resources for the Section to administer regular DBS checks.
- 3.14 The online update service is reliant on the driver registering themselves every year. Licence holders would therefore be urged to take up this option and re-register on an

¹ Must have access to a PC and an email address

annual basis prior to the renewal of their licence. If this service was not undertaken, a full enhanced DBS disclosure would be due every three years.

- 3.15 Licence holders would need to give their permission for the Taxi and Private Hire Licensing Section to use their unique registration number to carry out the online update check at the time of renewal.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Full public consultation was carried out between 5 July 2012 and 5 October 2012 and was presented to the Licensing Committee when it met in October 2012. Please see Appendix 3.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 An Equality and Diversity Screening Assessment is available as a background document.

4.3 Council Policies and City Priorities

- 4.3.1 The Taxi & Private Hire Licensing policies contribute to the following 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
- 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
- Improving customer satisfaction

4.3.2 The Taxi & Private Hire Licensing policies contribute to priorities:

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

4.3.3 Safeguarding children and vulnerable adults:

Leeds City Council has both a moral and legal obligation to ensure the duty of care for both children and vulnerable adults across all of its services. This cannot be achieved by any single service or agency. Safeguarding is ultimately the responsibility of all of us and depends on the everyday vigilance of staff who play a part in the lives of children or vulnerable adults.

4.4 Resources and Value for Money

4.4.1 The cost of additional resource requirements, either at the Taxi and Private Hire Licensing Section or at the BSC, would have to be met by the existing trade on the adoption of the policy in accordance with the Local Government (Miscellaneous Provisions) Act 1976.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The Local Government (Miscellaneous Provisions) Act 1976, Section 51 deals with the granting of a licence to a Private Hire driver. Section (1) (a) requires that the Council must be satisfied the applicant is a 'fit and proper' person.

4.5.2 Similarly, in respect of Hackney carriage drivers the 'fit and proper person' test is applied at Section 59 (1) (a).

4.5.3 The 'fit and proper test' applies not only at the point of first application but also at any renewal and it is proportionate for the Council to apply a means of checking that suitability, using DBS checks at reasonable periods. DfT best practice guidance suggests this should be every three years. This time period is supported by the council's Internal Audit team.

4.6 Risk Management

4.6.1 Members are reminded of the comments of an Internal Audit review of the Section completed in February 2012 and included within the report to Licensing Committee in October 2012.

4.6.2 Members are reminded that at the time of renewal, all licence holders are required to complete a declaration to confirm that they have no new convictions. In the event that a new conviction is declared, the application to renew is checked in accordance with the convictions criteria policy.

4.6.3 In addition, the disclosure of convictions and other information by the police, in relation to people in professions or occupations which carry additional trust or responsibility (often referred to as "notifiable occupations"), is applicable to licensed taxi and private hire drivers. This is however dependant on them being recognised

as a licensed driver by the police and the police determining whether or not it is appropriate to release that information in accordance with their governing guidance.

5 Conclusions

- 5.1 There are strong reasons for the introduction of three yearly DBS checks as indicated by the DfT and the council could be at risk if the guidance is not followed.
- 5.2 The amendment to the criminal records check policy (appendix 4) meets the Council's statutory requirement to ensure drivers are "fit and proper" in a proportionate manner.
- 5.3 Any additional cost has to be met by the licence holders as and when a DBS is required. These additional costs could be minimised by use of the online update service implemented by the Disclosure and Barring Service earlier in 2013.
- 5.4 Officers recommend that the DBS checking process utilises the e-bulk system and encourage take up of the online update service provided by the DBS.

6 Recommendations

- 6.1 That Members note the information in this report and approve the introduction of three yearly disclosures on all existing licence holders and new applicants to the trade, noting that minor administrative changes may be made, as the policy develops, under delegated decisions.
- 6.2 That Members note and approve that a DBS check is a pre-requisite to the grant or renewal of a Hackney carriage driver, private hire driver, Hackney carriage proprietor and private hire operator licence.
- 6.3 That Members make any observations they may have.

7 Background documents

Department of Transport report entitled Taxi and Private Hire Vehicle Licensing: Best Practice Guidance at:-

<http://assets.dft.gov.uk/publications/taxi-private-hire-licensing/taxi-private-hire-licensing-guide.pdf>

Council's Internal Audit Report of Taxi and Private Hire Licensing dated February 2012

Equality Impact Screening Assessment

Licensing Committee report – 16 October 2012



**Disclosure &
Barring Service**

DBS Update Service

Employer presentation

www.gov.uk/dbb

Date: May 2013

Version 2.0

Introduction

This presentation will help you understand, and get the most out of, the new Update Service.

What information is included?

- background to the Update Service
- other changes coming in at the same time
- who could benefit and how
- reusing a DBS Certificate
- how applicants subscribe
- using the Status checking facility
- next steps



Find more help online

At www.gov.uk/dbs

- employer guidance including:
 - frequently asked questions
 - quick guides:
 - how to carry out Status checks
 - the Status check results
 - how to do multiple Status checks

Also available soon:

- employer and applicant promotional videos
- downloadable posters



Disclosure & Barring Service



**Disclosure &
Barring Service**

Update Service

Background to the Update Service

The background

What customers wanted

- transferrable checks
- quicker checks

The government's commitment

To make criminal records checks more proportionate and give the public greater control over their information.



The background

Keeping our key principles

- providing a proportionate balance between upholding civil liberties and safeguarding vulnerable groups
- rebalancing the role of the employer and the state recognising that disclosure and barring are one part of the wider recruitment process
- trusting employers to make rounded decisions about who they employ – checking references and ongoing management
- reducing bureaucracy and delivering quicker and transferable checks and less costly services



The background

The DBS presents the Update Service

From 17 June 2013 applicants can subscribe to the Update Service with a new application or Certificate. The Update Service will then keep their Certificate up-to-date.

Reusing a Certificate

Once subscribed the individual can then take their Certificate with them from role to role where the same level and type of check are required.

How much will it cost?

There will be a £13 annual subscription fee, free for volunteers.



The background

What is a Status check?

With the individual's permission, you can go online for a free and instant check to find out whether the individual's Certificate is still up-to-date.

How to make a Status check

You will enter your name and your organisation together with the applicant's name, date of birth and Certificate number.

You do not have to register or subscribe to carry out a Status check.



How applicants join

Option one

Submit an application form to the DBS

Subscribe online using the application form number

Option one:

- subscribe online when they apply for a DBS check
- we must receive their form within 28 days of subscribing
- their Certificate will automatically attach to their subscription when it is issued



How applicants join

Option one

Submit an application form to the DBS

Subscribe online using the application form number

Option two

Submit an application form to the DBS

Receive the Certificate

Subscribe online using the Certificate number

Option 2:

If an applicant didn't join at the same time as applying for their DBS check, applied via e-bulk or on a Welsh application form they can still join up to 14 days from the date of issue of their DBS Certificate.



How applicants join

Some limitations apply

- e-bulk applicants can only join with their Certificate
- Welsh applicants can only join with their Certificate
- manual DBS Certificates cannot be used in the Update Service
- applicants cannot join with a Certificate issued before the launch of the Update Service



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Appendix 2

Cost of processing 3 yearly DBS applications in-house at Taxi and Private Hire Licensing

Current number of licensed Hackney carriage and private hire drivers is 5,876

Split over three years is 1,959 additional DBS disclosures per year

This is a significant volume of additional work that could not be absorbed within existing resources; there would be extra administration tasks associated with booking appointments, informing clients of the process and taking the payment of the DBS check prior to renewal of the licence.

It is anticipated that two officers would be required to administer, check and process this number of additional DBS applications per year.

Each application takes 1 hour to process on average and it is anticipated that a further 20 minutes of officer time would be required to book the appointments, explain the process and take payment.

This would require an additional two officers and the work would be rotated around all the existing staff, so all Licensing Officers spent a period of time processing DBS renewals.

2 x B1 Licensing Officer costs £38,826 (incorporating all on costs)

Costs of additional staff per DBS disclosure: -

$$£38,826 / 1959 = £20 \text{ admin charge per DBS disclosure}$$

Current fee charged by DBS per disclosure is £44

Online fee charged by DBS per disclosure is £2.50

Potential total costs per disclosure for each driver: -

$$£46.50 \text{ (DBS fee)} + £20 \text{ (admin fee)} = £66.50$$

The current fee charged by the section for DBS disclosures carried out as part of the application process is £60, so this would represent an increase of £6.50 per DBS disclosure required. This increase would be applied across all DBS disclosures required for whatever purpose (new application, 3-year refresh, etc).

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CRB Consultation: Talking Point Questionnaire October 2012

1. Are you a regular user of taxis and/ or a private hire service?	
Yes 131 83.4%	No 26 16.6%

2. Do you feel it is important that members of the taxi and private hire trade undertake an enhanced CRB disclosure to determine if they are a fit and proper person to carry passengers?	
Yes 149 95.5%	No 7 4.5%

3. A CRB is currently undertaken at the point of application to become a licensed driver. Do you feel it is important that a further CRB is undertaken during the lifetime of the licence?	
Yes 144 92.3%	No 12 7.7%

4. Do you think that taxi and private hire licence holders should undertake a further CRB:			
Every Year	Every 3 Years	Every 5 Years	No Opinion
58 37.4%	69 44.5%	17 11%	4 2.6%

5. Please add any further comments you wish to be considered:
1. If a driver is of good character and has no issues with honesty and integrity during their day to day business, there should be no need for further CRB checks. However if not trustworthy they should not hold a licence in the first instance and licence should be immediately revoked, never mind doing another CRB.
2. Taxi firm should pay for the CRB check
3. it is a must for CRB check every 3 years
4. It is important to feel safe when travelling in a taxi so I think it should be mandatory for them to be checked regularly.
5. We need to be sure our taxi drivers are properly licensed and managed and also that the vehicles are MOT'd and 100% roadworthy. We also need to ensure our drivers speak and understand the English language
6. it is just extra burden and expense on taxi driver who are already struggling with the increase of fuel prices and councils fees so please don't take the piss and don't change anything
7. instead of putting extra burden on taxi driver it would be nice if council can give some reduction in licences renewal fees to driver because they are already struggling with high increase in fuel insurance prices

8. the taxi drivers also need to be given a comfort of safety whilst carrying out their duties
9. I have teenage daughters who tell me that they sometimes feel uncomfortable in some taxis. On one occasion my daughter was asked to engage in sexual discussion with a male driver. This was reported to the police.
10. If you use taxis after a night out you can be in a vulnerable state and should be able to trust the taxi driver
11. If the status is checked every year then this should incentives good behaviour and driving standards.
12. I think lone females travelling in taxi or private hire will feel more comfortable knowing the drivers have a valid CRB disclosure. The general CRB checks are undertaking three yearly however, I feel in this instance to have them yearly would be more appropriate so any issues can be picked up and dealt with much quicker.
13. CRB renewal frequency should be in line with LCC policy for it's own staff i.e. every 3 years
14. Any work that involves contact with the general public often in a vulnerable state should be regulated i.e. CRB
15. They should be CRB checked every 5 years but also in between when applying for jobs with a new company.
16. I think there should also be able to check these drivers don't have a drink problem when they are driving other paying passengers around.
17. hard time for taxi driver coz of high fuel price and insurance that's why extra burden on them leave them alone and don't put extra cost on them
18. DRIVING LICENSES AND PASSPORTS TO BE CHECKED ANNUALLY
19. Given the poor standard of driving skills displayed by some drivers it might also be a good idea to ask them to their driving re-assessed every three years
20. There should be stringent checks to ensure that the person is who they say there are and especially in the case of Asian taxi drivers that they are not using numerous names and each others driving licenses and identities!
21. I believe Taxi cabs should be maintained and repaired by a National Garage who would be responsible to adhere to all current and relevant Quality Standards for maintenance and vehicle repair. This would also be applicable to all public transport i.e. buses, coaches, mini buses etc and would prevent backstreet cowboy repairs being carried out on public vehicles.
22. My daughters use taxis regularly and I assumed taxi drivers were subject to regular CRB checks. As an auditor for the council I have an annual CRB check and feel this by comparison is so unnecessary. The council would be better spending money on taxi drivers who are trusted with driving lone women at night.
23. The five year option may work if there is a legal duty on the licence holder to disclose convictions within a determined time frame, this would allow for action by the licensing authority without the need to rely upon a CRB check. Any failure to comply MUST be an automatic revoking of a licence in this case.
24. Owners of Private Hire vehicles should also be subjected to the same checks
25. Important to know who is transporting us and if they have relevant records
26. Given that some taxi firms are used to transport children and vulnerable adults I feel that it is important that CRB checks are part of wider employment checks.
27. You are putting trust in complete strangers, to get you safely from one destination to another, so it would be reassuring to know that they are being checked out on a regular basis

28. The importance of having confidence in the integrity of a taxi service is very important for the city of Leeds and its future as a bad reputation for this service area will stop visitors coming to our city
29. CRB checks are needed as there are a lot of vulnerable young /old people use the services and people with mental health issues bare in mind its out of date as fast as its filled in as a crime could happen within the time of next up to date CRB
30. Very important that CRBs are repeated regularly. Current council policy (for staff that are working with children or vulnerable adults) is that enhanced CRB checks should be repeated every 3 years as a safeguard. This should be at least the same for taxi drivers as they may very well be required to transport children or vulnerable adults.
31. Please make sure that the drivers are fluent in speaking English, I feel that some of the drivers have no clue of the language. Also I would suggest that the drivers go through training more rigorously.
32. There is not much wrong as things stand but obviously any improvements (that are practical without impeding the drivers from doing their job) would be welcome.
33. Checks should be retrospective so that ALL drivers are cleared as of now.
34. Annual checks should me made to protect the vulnerable members of the public who use of the taxi service
35. Once every five years. is enough for a taxi driver.
36. I would feel much safer as a female travelling alone in a taxi
37. I feel this is really important - that passengers - especially young women feel that they can get into a car and know the person driving them has been checked. How will you decide if someone is not to be given a Licence if they have a criminal record? Would have been useful to let public decide what types of crimes - so a list of different offences could have been useful - then let the public have a view of those excluded. E.g. any violent crime should be excluded.
38. I have experienced minicab rides where the driving was extremely poor and possibly dangerous. I think that there should be more monitoring of driving ability.
39. The drivers should have to sit more driving test, yearly possibly because the standard of some drivers can be poor to say the least
40. Make a survey which actually takes into account previous questions - I answered stating that I did not think further CRB checks after the initial check were required and therefore the following question of how often should the "re-check" occur was actually a pointless question which should have been skipped!
41. As taxi drivers have access to vulnerable young people and adults and the ability to form relationships with these people, For the protection and well being of both children and young people and vulnerable adults it's important that CRB checks are carried out at least as regularly as in other services where employees have access to young people or vulnerable adults (every 3 yrs) and that only taxi companies with drivers who can evidence this should be on an approved supplier list for LCC use.
42. Support staff (i.e. those whom receive sensitive information) I believe should be included.
43. The initial check is useful on the first application; however I feel that the applicant should have a yearly check. This would highlight any criminal activity over the lifetime of the licence.
44. I work in Children's Services and a large part of my role involves 'face-to-face' contact with young people - I expect to be, and am, subject to undertaking an enhanced CRB check every 1-2 years. Many taxi drivers are involved in daily school

runs as well as more general work with adults so this should be the case for them too.
45. The checks should be in line with Leeds City Council policy - every three years.
46. As anyone who deals with the public, quite often on a one to one basis, then CRB regular checks are crucial to make the people of Leeds and anywhere else, to feel absolutely safe
47. Regular vehicle checks should be introduced too. not just the normal MOT as these vehicles are used much more and some I have been in would not pass
48. I think they should be every year as a CRB check only provides a snapshot, ensuring they are done regularly will help to ensure members of the public are kept safe.
49. I feel that making further CRB checks to taxi and professional hire drivers is an extremely important measure to ensure the safety of passengers, pedestrians and other drivers.
50. How do you effectively screen people who apply for a license from countries which do not participate in the screening process?
51. I am sure I am not the only person who has had an experience where I have been frightened by the taxi driver, either through aggression or sexual harassment. Taxi companies should also take complaints about their drivers more seriously.
52. Full CRB should be carried out every year. Taxi and private hire drivers are carrying people in their vehicles on a regular basis who are and could be vulnerable.
53. Review of the laws of the road. Following correct speeds.
54. There should be an ability to take licenses from drivers when they are reported to licensing team for bad driving techniques
55. I feel that is important that taxi staff do have regular CRB checks and this gives further re-assurance to the customer. Also vehicles should be checked before license is given for seat belts etc as these are sometimes not fitted or indeed working safely
56. My son takes taxis on a very regular basis, earlier this year a local taxi driver attempted to steal the contents of his wallet when my son was paying his fare at the end of the journey. The taxi driver was threatening and physical, my son attempted to get out of the car, the driver reversed and ran him over. He sustained a severe breaks in his arm, has lost the full use of his left hand. He was unable to work for several months, suffering now from depression. There is CCTV footage of the incident and two witness statements. This driver is pleading not guilty and so my son will also have to go to court in November. I use taxis on a very occasional basis and now will not travel alone in a taxi. In my local area taxi drivers seem to drive very fast, cut in front of cars, race the traffic lights and do not seem to considerate of other road users or pedestrians.
57. CRB checks should be undertaken in line with the guidance from the Home Office.
58. I think it is important that taxi drivers are of good character and that any
59. I think it is important that any person that provides a service to the public should have a CRB check. It is important for the safety & well being of their passengers
60. The reason I feel that CRB's should be done annually is because 3 - 5 years is too long between CRB checks as any conviction could happen in this period.
61. I use the same company when ever we need a taxi and it is an important position of trust - I have built up a relationship with this company. CRB's would make me feel safer.

62. Taxi drivers are regularly placed in a position of trust with vulnerable members of the public travelling alone. I suggest regular and on-going checks should be a matter of course and central to holding a licence.
63. Most professions that are involved in public activities require regular CAB If a driver committed a serious offence that could be detrimental to public safety whilst he was applying for a license then this would not show on CRB however it would on the next one and I feel that a one year period is long enough to for this to occur
64. considering the state some people are in, and the fact that children are able to be using this service a CRB is important
65. Enhanced CRB's should be for everyone who has access to the public/children and pensioners. More so when vulnerable members of society are alone with a taxi driver.
66. That it should be taken every 3/4 years
67. In answering this survey, I have considered the views of my three teenage daughters. It would be a little more reassuring for me to think that those that are likely to be alone on a one on one basis with anyone should first be vetted to ensure safety of passengers, with continued vetting while ever they wish to continue to carry out their role
68. Taxi drivers are in a position of trust working late at night and often with vulnerable clients and as such should be checked regularly.
69. Taxis are used regularly by young people and as a parent I want to be assured that every step has been taken by the relevant authorities to ensure the safety of vulnerable young people when they get into a taxi with a stranger, often late at night. Therefore stringent checks on driver's capability to drive (i.e. valid clean UK driving license), and integrity as far as it is possible to check, are extremely important to me.
70. CRB should be regularly reviewed. If someone is convicted of sexual predatory behaviour then its no good waiting 3 years to find out
71. Taxi livery and condition of the comfort and cleanliness of the car and the driver
72. I think that Private hire drivers should be CRB checked at regular intervals and also that they should be visited by mystery visitors to check on the standard of driving, knowledge of their area, and the standard of customer care
73. and training need to be giving and speaking English
74. Public sector workers are required to complete CRB checks every 3 years why not taxi drivers?
75. The main point is that you feel safe when you get into a taxi. Even if it is a firm that you trust or use regularly. You pay for a service and you want to feel you can use this service without fear, or intimidation.
76. Essential so even vulnerable people can use taxis with safety
77. I use taxis infrequently because I am nervous about travelling with someone who barely speaks due to little command of English. Begs the point How did they pass a driving test? Also they continually chat on a mobile phone to family members. They should not be outside the law.
78. We have to trust drivers with venerable people, including children, young, drunk persons, physically and mentally ill persons. So we need to feel assured that the drivers are trustworthy
79. It should be mandatory that all private hire vehicles have CCTV installed for the protection of passengers and taxi drivers
80. Before a taxi driver is able to commence their role, the person should go through a CRB in order for the public to feel safer, and to know the taxi driver is at least

suitable for the role. They are providing a service to the public, just as much as employees of Leeds City Council are.

81. You are responsible for the safety of the public in taxis, private hire cars and a CRB is only the start. You also have to stop private hire drivers from sharing their badges. I have had 2 this week that were using someone else's badge. If you don't believe me, Ask anyone? They also take advantage of drunk and vulnerable individuals at weekends. Be brave and challenge this situation instead of pretending it doesn't happen.

82. This should be extended to other areas too, York and Barnsley

83. It is important to check that these drivers who we trust are actually worthy of that trust. People can be vulnerable in taxis especially when intoxicated.

84. I need to know that the driver of my taxi has not committed any type of criminal offence especially a sexual offence

85. It is essential that these checks are carried out so that the people of Leeds can be assured that they are travelling safely.

86. It is important that passengers (particularly lone females) feel safe in the knowledge that their driver can be trusted.

87. As long as each case is carefully considered when a disclosure is revealed, bearing in mind the rehabilitation of offenders then a CRB check is useful.

88. I think there should be monitoring of whether or not firms actually carry out the current regulations of asking for CRB checks. My local company regularly has new drivers who have just come to this country. Getting a CRB check for them would be difficult. I doubt that the company adhere to the regulations and ask for one before allowing the drivers to work.

89. If a person is convicted of crime that can affect his performance at the job or dealing with public then he should be dismissed. A hard working and hard pressed driver having to pay inflated fuel, insurance and licence renewal fees should not be made to pay every 3 years.

October 2012
CRB Consultation: Email Responses

Response From:	Response Details:	Officer Response:	Change to policy:
Executive Hire Operator	We would support such an amendment.	Noted.	No Change.
Private Hire Driver	As a law abiding private hire driver, I have no problem with the council doing a CRB check every year if they wish, but i do have a problem if I have to pay for it. School teachers have to have regular CRB checks but they are not charged for them so do the check as often as you wish, but don't make a struggling private hire driver pay even more. We are being squeezed tighter & tighter all the time, more licences issued, fuel prices rising insurance costs spiralling to make us pay extra will send most legitimate drivers out of the trade.	In many instances employers pay for CRB checks where they are required for their employees. Leeds City Council is not the employer of the Taxi and/ or Private Hire drivers. The current renewal fee for both drivers and vehicles is £115. This equates to £0.32 per day.	No change.
Anonymous	I work for the security industry	Leeds City Council is aware of	Further investigations to be

	<p>and have an enhanced CRB disclosure done every 3 years any way. It will not be financially viable for an individual like myself also working as a driver to have 2 enhanced CRB disclosures done in one year.</p> <p>Alternatively I might have one CRB done in one year for one organisation and another in the next year for the other organisation resulting in my CRB disclosure carried out too early not to mention leaving one out of pocket. The cost of enhanced CRB disclosures are generally paid by the organisations schools, hospitals etc. To levy this cost on the applicant would be unfair.</p>	<p>an online facility being developed which may negate the need for two disclosures being carried out in one year.</p> <p>In many instances employers pay for CRB checks where they are required for their employees.</p> <p>Leeds City Council is not the employer of the Taxi and/ or Private Hire drivers.</p> <p>The current renewal fee for both drivers and vehicles is £115. This equates to £0.32 per day.</p>	<p>undertaken to understand the CRB timescales.</p> <p>To review the policy as and when any changes are implemented by the CRB.</p>
Resident	<p>I think the public should know if a taxi & private hire driver has been checked by LCC. & the police and the dates should be on your badge and displayed on the dash or windscreen of the car .. Not around your neck where no one can see it anyway !!</p> <p>.. Maybe a good idea !</p>	<p>Drivers are encouraged to display their badges in clear view of their passengers.</p>	<p>No change proposed.</p>
Hackney Carriage	<p>I think the 3 years CRB check is a</p>	<p>Yes, those Leeds City Council</p>	<p>No change proposed.</p>

Association	<p>good idea. Most of our contracts do actually ask if our drivers have had regular CRB checks. I also believe that when taxi drivers are dealing with the public, particularly vulnerable people it is imperative that drivers are regularly checked. I may be wrong but do the council staff also have to be regular checked under the 3 year rule for CRB? With this in mind is there any way that our trade could have a special discounted rate, I believe council employees do get some sort of discount. We have to take in mind that if there are over a thousand Hackney Carriage props and drivers and near to 5000 private hire drivers. it would be appropriate to ask for some sort of discounted price for these drivers. The price at the moment is around £70ish. Any discount would be well worth considering for our trade if we are to consider the new proposals.</p>	<p>staff who come into contact with children and vulnerable adults do undertake a CRB every 3 years.</p> <p>There is no discount applied.</p> <p>The Taxi and Private Hire Licensing Section will endeavour to apply a reasonable cost purely to cover our administration of the process.</p>	
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Appendix 4

Extract from the 'Guide to obtaining a licence' policy and guidance document

2.1.2 Why do I need to undertake a DBS disclosure to be licensed?

Your role as a licensed driver and/ or Operator may bring you into contact with vulnerable groups such as the infirm, elderly, mentally ill and young people under the age of 18. To protect these vulnerable client groups we must check for the existence and content of any criminal record.

A Standard disclosure contains details of any spent and unspent convictions, as well as cautions, reprimands and warnings, recorded by the police centrally. Additionally, enhanced disclosures may contain non-convicted information from local Police records which a Chief Police Officer thinks may be relevant in connection with the matter in question. Your licence application will be subject to an Enhanced Disclosure.

You will receive your disclosure at your home address, direct from the DBS

A further criminal records check must be undertaken if your licence has not been granted within 3 months of the date stated on your disclosure. For example, if you do not attend and pass your English comprehension test within 3 months you will be required to complete a further disclosure form, at your own expense, before a licence is granted.

It is very important for you to be aware that a criminal record will not necessarily prevent you from obtaining a licence. Any information disclosed will be treated fairly and you will have the opportunity to make representations to the Officer dealing with your application. (Please see 6. I'm interested in becoming a Private Hire driver but I have a criminal conviction – can I still apply? for further guidance.)

Please note that the application you have submitted is exempt from the *Rehabilitation of Offenders Act 1974*, which means all convictions, cautions, reprimands and final written warnings on your criminal record need to be disclosed on your application form. You should also provide details of any Police enquiries undertaken following allegations against you which may have a bearing on your application.

In line with Department for Transport best practice guidance, all licence holders are also required to undertake a 3 yearly DBS checks at their own expense to ensure that they remain a fit and proper person to transport members of the travelling public.

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Report of Head of Licensing and Registration

Report to Licensing Committee

Date: 17th December 2013

Subject: Licensing Act 2003 Statement of Licensing Policy 2014-2018

Are specific electoral Wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, name(s) of Ward(s): City and Hunslet		
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. The Council adopted the first Licensing Act 2003 Statement of Licensing Policy in 2005 and this policy has been reviewed on a three yearly basis in line with the requirements of the legislation.
2. In April 2012 the Police Reform and Social Responsibility Act 2011 made substantial changes to the Licensing Act 2003 which prompted an early review of the policy.
3. Licensing Committee formed a working group to look at the issues in June 2012 and Licensing Committee approved a draft report for public consultation from June to August this year. This report presents the findings of the consultation, the working group's comments and a final version of the policy for referral to Council for approval.

Recommendations

4. That Licensing Committee review the responses to the consultation, the proposed consultation report and the amended Statement of Licensing Policy.
5. That Licensing Committee refer the LA03 Statement of Licensing Policy 2014-18 and the Consultation Report to Council for approval.

1 Purpose of this report

- 1.1 To present to Licensing Committee the Consultation Report and final Statement of Licensing Policy 2014-2018 for consideration and referral to full Council.

2 Background information

- 2.1 Section 5 of the Licensing Act 2003 requires licensing authorities to prepare and publish a statement of licensing policy every three years. The council's first Statement of Licensing Policy was adopted by Council on 12th January 2005 and was reviewed in 2007 for adoption in December 2007. A reviewed and amended policy was adopted by Council in January 2011.
- 2.2 In April 2012 the Police Reform and Social Responsibility Act made wide ranging changes to the Licensing Act 2003. These changes necessitated a review of the current Statement of Licensing Policy. One of those changes was to change the length of the lifetime of a policy from three to five years.

3 Main issues

- 3.1 In July 2012 Licensing Committee formed a working group of 5 elected members, supported by officers from Entertainment Licensing and Legal Services to look at the changes in the Police Reform and Social Responsibility Act and to propose changes to the current Policy.
- 3.2 The working group met on a monthly basis speaking to a range of experts on the relevant matters and a range of changes were proposed in a consultation document and draft Statement of Licensing Policy 2014-2018.
- 3.3 In May 2013 Licensing Committee approved a public consultation to obtain the views of those affected and the people of Leeds.
- 3.4 The council received 10 responses, which are detailed in the Consultation Report (attached at appendix 1). The responses were very useful and changes have been made to the Policy (attached at appendix 2) in response to those comments.

Working Group Comments

- 3.5 The Working Group met in October to discuss the consultation responses. The group noted that the response from Wetherby Town Council raised concerns about alcohol deliveries by fast food outlets and specifically about the protection of children. The policy was amended to suggest applicants should have robust policies to ensure that no deliveries of alcohol are made to children.
- 3.6 A number of respondents had concerns about the statutory process relating to Temporary Event Notices. Specific concerns were:
- that only the Police and Environmental Health can object;
 - that residents aren't consulted with,
 - that the council should automatically block unsuitable TEN applications.

- 3.7 As these matters are controlled by the statutory process, it is not within the scope of the policy or within the ability of the licensing authority to amend the process to suit local concerns. An explanation of this is included in the consultation report.
- 3.8 In addition the Licensing Committee, through the Chair, has had correspondence with the Home Office about the unsuitability of the TENs process, However the Home Office response (appendix 3) refers to the TENs process as a light touch approach and indicates there is little likelihood of changes to the system.
- 3.9 A number of respondents talked about cumulative impact policies. There was support for the retention of the Woodhouse CIP, and so the working group recommends that this is retained.
- 3.10 Another concern about CIPs was that in order to get an application made for premises in a CIP area heard before a licensing subcommittee, there needs to be a representation made. In the past the licensing authority has relied upon residents and responsible authorities to make the representations. The working group discussed the new power given as part of the changes to the Licensing Act in April 2012, for the licensing authority to make representations.
- 3.11 The working group agreed that the licensing authority should make a representation based on cumulative impact against any application made within a CIP area, in consultation with local ward members. Should the local residents subsequently express their support for the application, through the ward members, consideration can be given to withdrawing the licensing authority representation. This will ensure that all applications made in a CIP area will be heard by a licensing subcommittee, unless local support is expressed. If the licensing authority receives other representations which describe the negative effects of cumulative impact this will strengthen the licensing authority case, and can be taken into account when the licensing subcommittee makes their decision.
- 3.12 In order to establish if this would significantly increase the number of hearings the licensing committee currently hear, the statistics for the last two years were obtained:

	City		Headingley		Chapel Allerton		Horsforth	
	11/12	12/13	11/12	12/13	11/12	12/13	11/12	12/13
Received	41	62	8	6	3	5	4	2
Hearing	22	11	3	1	2	0	0	0

- 3.13 The numbers which relate to Headingley, Chapel Allerton and Horsforth are small, and would not impact on the current number of hearings. The licensing authority does receive a high number of applications for the city centre. However the scope of the CIP in the city centre is changing with a much reduced “red zone” proposed. Last year five premises applied in the red zone. In conclusion the evidence suggests that ensuring all CIP applications came to hearing would not increase the number of applications being heard significantly.

- 3.14 During the application process, agreements are often reached between the responsible authorities and the applicants. Providing these agreements are reached in time to do so, the responsible authorities would normally withdraw their representation to save a matter coming to hearing which has already been resolved. As the licensing authority representation would be on the basis of cumulative impact, it is unlikely that any measure offered by the applicant would entirely resolve that concern, however it is proposed that where agreements have been reached with the Police in the city centre, and an application is no longer of concern to them, the licensing authority would withdraw the CIP representation to save unnecessary hearings.
- 3.15 Health and Environmental Action Service made a detailed response to the consultation and a number of minor changes to the policy have been made as a result of this response.

Approval Process

- 3.16 Taking into consideration all the comments made, the working group has made a number of changes to the draft policy, and now present it to Licensing Committee along with the consultation response. The adoption of the new policy is a matter for Council; however it is for Licensing Committee to review the proposed policy and to refer the matter to Council.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 The draft Statement of Licensing Policy 2014-2018 was subject to a public consultation between 3rd June and 28th August 2013. The consultation received ten responses from responsible authorities, community groups and individuals. The response to the consultation is provided at appendix 1.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 Equality and diversity, cohesion and integration have been considered each time the policy is reviewed. At this time 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 review of the policy is a mandatory requirement. This time the review of the policy was required due to sweeping changes to the Licensing Act 2003. Although reviewing a policy and the subsequent consultation does have a cost associated with it, it is considered good value for money as a robust policy supports the decisions of the Licensing subcommittees and therefore reduces the risk of legal challenge.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 As already stated in 4.4.1 the review of this policy is a mandatory requirement. It is also good practice, especially where there have been such major changes to the Licensing Act. The review of the policy will reduce the risk of a successful legal challenge.

4.6 Risk Management

- 4.6.1 As previously stated the review of the policy reduces the risk of legal challenge to the licensing subcommittee decisions.

5 Conclusions

- 5.1 The public consultation brought forth the public concern about the sale of alcohol to children via delivery services, the cumulative impact policies and their effectiveness and concerns about the temporary event notice system. The working group has suggested a number of changes to the draft policy in line with these comments which are detailed in the consultation report and present the two documents to Licensing Committee for approval and further referral to Council for adoption.

6 Recommendations

- 6.1 That Licensing Committee review the responses to the consultation, the proposed consultation report and the amended Statement of Licensing Policy.
- 6.2 That Licensing Committee refer the Licensing Act 2003 Statement of Licensing Policy 2014 - 2018 and the Consultation Report to Council for approval.

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.

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Final Consultation Report

Statement of Licensing Policy
2014 – 2018

Licensing Act 2003

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Introduction

The Licensing Act 2003 came into force in 2005 and brought the licensing of sale of alcohol, regulated entertainment and late night refreshment into one system. Leeds City Council became the licensing authority for premises in the Leeds area and the system is administered by the council's entertainment licensing section.

As part of the Licensing Act 2003 there is a requirement placed on licensing authorities to develop a statement of licensing policy which describes the principles the council will use when determining licences under the Act.

Executive Summary

This report details the findings of the public consultation on Leeds City Council's Licensing Act 2003 Statement of Licensing Policy.

A review was undertaken on the existing policy and the proposed amendments are detailed in this document.

A more detailed review of Section 7 – Cumulative Impact Areas was undertaken with involvement with ward members, West Yorkshire Police, Crime and Disorder Reduction Partnership and the responsible authorities. Statistics relating to antisocial behaviour, rowdy behaviour and nuisance were gathered which informed proposed changes to the CIPs.

The public consultation took place between 3rd June and 28th August which was a twelve week consultation period. Officers analysed the consultation responses and produced a final draft which will be presented to Licensing Committee and full Council in November.

The final Statement of Licensing Policy will be published by 1st January 2014.

Background

We developed and consulted upon the Leeds City Council Statement of Licensing Policy in 2005 and reviewed it in 2007 for the period 2008-2010 and again in 2010 for the period 2011-2013.

The Police Reform and Social responsibility Act 2011 received Royal Assent in September 2011 and brought a number of changes to the Licensing Act 2003 which was designed to give power back to local communities and to make it easier for Licensing Authorities to deal with problem premises and the problems associated with late night drinking.

The majority of these changes came into effect on 25th April 2012. The remaining changes (late night levy, early morning restriction orders) came into effect in October 2012 and locally set fees are likely to come into effect in 2014. These changes make fundamental changes to the way licence applications are determined and therefore there was a need to review the Statement of Licensing Policy.

The council's Licensing Committee formed a working group in July 2012 to undertake a review of the licensing policy and to hear from a number of organisations who can provide expert advice and opinion. The working group met monthly to hear from the expert panel on issues such as the late

night levy, early morning restriction orders, cumulative impact policies, dispersal in the city centre and local licensing guidance.

Part of this work was to review the five cumulative impact policies and to hear from West Yorkshire Police, the planning department and community safety. Updated crime and nuisance statistics were scrutinised and the cumulative impact policies were amended.

The Council presented these changes in a public consultation.

Purpose of the Statement of Licensing Policy

The purpose of the policy is to set out the principles upon which the licensing authority will exercise its functions under the Licensing Act 2003. Applicants are expected to read the policy before making their application and the Licensing Authority will refer to the policy when making decisions.

Purpose of the consultation

It is a requirement of the Licensing Act 2003 that licensing authorities consult with people affected by the policy. Specifically the Act states:

Before determining its policy for the next period, a licensing authority must consult –

1. the chief officer of police for the licensing authority's area,
2. the fire authority for that area,
3. such persons as the licensing authority considers to be representative of holders of premises licence issued by that authority
4. such persons as the licensing authority considers to be representative of holders of club premises certificate issued by that authority,
5. such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and
6. such other persons as the licensing authority considers to be representative of businesses and residents in its area.

Consultation Methodology

In order to meet the requirements of the Act the council has undertaken the following steps:

1. Held a series of meetings with the working group, officers from West Yorkshire Police, officers from City Development, including local planning officers, forward planning and regeneration and the Crime and Disorder Reduction Partnership.
2. Scrutinised crime figures relating to rowdy behaviour, anti-social behaviour and violent crime.
3. Scrutinised Environmental Health nuisance figures relating to noise nuisance and littering.
4. Examined data relating to the number of new and variation applications.

The public consultation ran from 3rd June to the 28th August 2013 and included:

- A postal consultation to the trade, support groups, religious groups, ward members and local MPs.
- A press release
- A webpage on the Leeds City Council website which provided the consultation documents and online questionnaire.

Change Document

After a review of the policy by the working group set up by Licensing Committee, we added three paragraphs which reflect changes in the law (vicinity, interested party, necessary). We updated a number of sections to bring them up to date.

The working group reviewed the Cumulative Impact Policies and made a number of changes. The most major of this was to the city centre CIP. This CIP was altered to specify green, amber and red areas within it. This is to reflect the desire by the licensing authority to encourage good quality applications from business that offer something different to the high volume vertical drinking establishments which have been popular in the past.

Following the introduction of the concept of early morning restriction orders in the Police Reform and Social Responsibility Act a new section has been inserted which provides the process the council will follow should a request for an EMRO be received.

Finally the council, through the Licensing Committee, has introduced the concept of local licensing guidance and a new section describes what these are and how they will be utilised.

Initial Changes

Throughout policy:

Removal of any reference to vicinity

Removal of any reference to interested party

Removal of the word necessary and replace with appropriate in relation to the licensing objectives

Major reordering of sections.

Section 3 – The Leeds District:

Update information relating to the Leeds Vision for Leeds

Section 4 – Integrating other guidance, policies, objectives and strategies:

Update to other council policies

Section 6 – General Principles:

Insert two paragraphs relating to dispersal

Insert additional paragraph in relation to opening hours

Remove reference to annex D of the DCMS guidance

Insert two paragraphs relating to planning

Section 7 – Cumulative Impact Policy:

Insert paragraphs 7.9 and 7.10 about exceptional factors

Insert paragraphs 7.12 to 7.14 relating to representations on cumulative impact outside cumulative impact policies

Insert paragraph 7.20 instigating an annual review of the policies

Insert paragraphs 7.21 to 7.27 to replace existing city centre CIP

Insert paragraphs 7.34 to 7.36 which replace the existing Headingley CIP wording, but only increase the scope of the CIP to include off licences operating after midnight

Delete the Area 3 Woodhouse CIP in its entirety

Insert paragraphs 7.38 to 7.40 which replace the Chapel Allerton CIP wording but do not increase the scope

Insert paragraphs 7.42 to 7.44 which replace the Horsforth CIP wording but does not increase the scope

New Section 8 – Early Morning Restriction Orders

This new section lays out the procedure to be followed in making an early morning restriction order.

Section 10 - Premises licences and club premises certificates (including variations)

Replace paragraphs 9.2 to 9.4 with 5 paragraphs that introduce local licensing guidance for applicants

Appendix 1 – Responsible authorities

Remove

Final Changes

During a final review of the policy at the end of the consultation, and taking into consideration the consultation response, there were a number of changes identified:

Section 4 – Promotion of the licensing objectives

Amendment of paragraph 4.16 to include “The team can also offer advice in relation to workplace health and safety matters, including compliance with the Health Act 2006 (smoke free).”

Section 6 – Premises Licences and Club Premises Certificates

Insert a paragraph in Section 6 relating to alcohol deliveries:

An applicant seeking a licence that will enable them to provide alcohol as part of an alcohol delivery service should include in their operating schedule the procedures they intend to operate to ensure that:

- The person they are selling alcohol to is over the age of 18
- That alcohol is only delivered to a person over the age of 18
- That a clear document trail of the order process from order, despatch from the licensed premises and delivery to the customer is maintained (with times and signatures) and available for inspection by an authorised officer
- The times that alcohol is sold on the website/over the phone and the time the alcohol is delivered is within the hours stated on the licence for the sale of alcohol.

Section 7 – Cumulative Impact Policies

Insert into paragraph 7.6 “that the applicant is encouraged to submit a full and thoroughly considered application at the earliest opportunity. The onus is on the applicant to demonstrate to the responsible authorities the suitability and detail of the scheme for their site.”

Insert information in Section 7 which will assist local residents in a CIP area.

Amend 7.7. – “Despite the presumption to grant, responsible authorities and other persons will still need to make a relevant representation before the council may lawfully consider giving effect to its

cumulative impact policy. The licensing authority, in its role as a responsible authority and in consultation with the relevant ward members, will make a representation to any application received in a cumulative impact area, including the latest evidence. Any further representations from members of the public and responsible authorities will support and strengthen the licensing authority representation”.

Retain the Woodhouse CIP.

Section 8 – Early Morning Restriction Orders

Amend 8.5 to include Health and Environmental Action Service as a responsible authority who might request an EMRO.

Expand 8.5 to include the role, attendance and aims and objectives of the LEG.

Insert new paragraph that the aim is to support businesses rather than hinder in a geographical area whilst ensuring compliance with the objectives. However where this has deemed to fail then an EMRO could be a possible solution.

Temporary Event Notices

A recurring theme in the responses received to this policy consultation was dissatisfaction with the current temporary event notice system.

A temporary event notice is a notification procedure set out in the Licensing Act 2003. As it is a statutory process, it is not within the power of the council, or within the scope of the policy to make changes to this system. This can only be done on a national basis by the Government.

As the licensing authority is sympathetic to the concerns expressed in the consultation, it has addressed these issues in correspondence with the Home Office, requesting an urgent change to the temporary event notice system. The Home Office response is that this system is designed to be a light touch process and as such is not planning to make any changes to the statutory process.

As it appears that changes to the current system will not come from Government, the licensing authority has put in place procedures that may help to ensure that temporary events do not adversely impact on local communities.

Although a TEN does not require approval from the licensing authority and the licensing authority cannot object to temporary event notices in their own right or accept objections from members of the public, the Police and Health and Environmental Action Service (HEAS) are able to serve an objection notice if they have concerns that the event will adversely impact on crime and disorder, public nuisance, public safety or children. This ensures a temporary event notice is considered by Members of the Licensing Committee who can serve a counter notice if they concur with the objection notice. This would mean the temporary event notice no longer has effect.

It is the usual practice of HEAS to give particular attention to events in residential areas and it is expected that the concerns of local residents will already have been taken into consideration when HEAS receive the TEN notifications from the licensing authority.

Should anyone believe that an event will adversely impact on crime, disorder, nuisance, safety or children, they can contact the Police or HEAS directly to ensure their concerns are registered and will be taken into consideration. Due to the tight timescale inherent in the system, it is important that this is done quickly, and for this reason the council now informs all ward members of all temporary event notices served on the licensing authority.

In addition it is within the remit of any citizen or organisation to appeal to their MP, or direct to the Home Office, to object to the temporary event notice system as the licensing authority has done.

Consultation Responses

Response from West Yorkshire Fire and Rescue Service

Thank you for this opportunity to comment on your revised statement of licensing policy.

The West Yorkshire Fire & Rescue Authority is of the opinion that the revised policy will promote the four licensing objectives, in particular fire safety.

This authority has examined the 'summary of changes' and can confirm that it has no adverse comments to make. Applicants for premises licences should be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives and for complying with relevant fire safety legislation.

Officers of the Authority look forward to maintaining and developing the current close-working relationship with licensing officers of the council.

Comments: None

Action: None

Response from Rawdon Parish Council

Rawdon Parish Council considered the consultation at their meeting on 3rd July 2013. The Parish Council is grateful for inclusion in the consultation however the Council does not wish to comment on this occasion.

Comments: None

Action: None

Response from Wetherby Town Council

Wetherby Town Council has reviewed the above public consultation document and now formally submit the following statement of concerns and recommendations. This report was produced by Cllr Neil O'Byrne and approved at the July meeting of Wetherby Town Council.

Concerns

There are two issues that raised concerns, they being:

- a. The provision of alcohol as part of a food delivery by takeaway food outlets
- b. That only the Police or Environmental Health and Action Service (HEAS) may oppose the granting of a Temporary Event Notice (TEN).

The Provision of alcohol as part of a food delivery by takeaway food outlets

The four licensing objectives (4.1) are:

1. The prevention of crime and disorder
2. Public safety
3. The prevention of public nuisance
4. The protection of children from harm

The restriction on sales of alcohol to persons under the age of 18 is due to the recognised dangers to the health and wellbeing of children and their development, so to protect them Leeds City Council has a duty to take all possible steps to prevent them accessing alcohol.

There is considerable evidence of the link between the use of alcohol and both public nuisance and crime and disorder.

The public consultation document provides predominantly for premises. An area of concern for some time has been that involving alcohol off-sales by fast food outlets, particularly in relation to deliveries, with the potential for young children and young people to access alcohol through this means.

The natural response to this assertion might be 'what evidence have you to support this view?' Therein lies a significant problem in that securing evidence of breaches of the relevant Licensing Laws is almost impossible and certainly too resource intensive for the Police and Licensing Officers to contemplate.

Neither agency will know when a delivery order, including alcohol, might be received by premises licensed to provide such a service and if they were to follow a delivery it would be almost impossible to monitor the transaction to determine whether an offence of supplying alcohol to a person under the age of 18 may have been committed.

We would encourage LCC to amend the policy to reflect the need to protect children from harm outweighs commercial gain and refuse new applications and renewals for licences to provide the delivery of alcohol with or without food. Sales of alcohol with food on-premises could be considered with adequate consideration of:

- Comprehensive risk assessment (4.5, page 12)
- Challenge 25/Check 25 (4.37, page 15)(numbering out of sequence in document)
- Mandatory CCTV with 30 day recording (7.2, page 26)
- Personal Licence Holder held responsible for any/all breaches (9.12, page 35)
- Disclosure and Debarring Service (DBS) certificate (formerly CRB) mandatory for holder of Personal Licence (9.5, page 35)

Only the Police and Environmental Health & Action Service (HEAS) may oppose the granting of a Temporary Event Notice (TEN)

The system of permitted temporary activities is intended as a light touch process (10.1) and as such the licensing authority is only given notice of the event.

Save for the licensing authority intervening when various limits are exceeded, e.g. the number of time a premises user may apply in a calendar year, only the Police or HEAS may intervene to prevent such an event or modify the arrangements for it.

Whilst some applications for TENs are from charities, community and voluntary groups, there are a number that are from premises and organisation who consideration as to their suitability for such a

license might benefit from local knowledge. Accordingly, we would encourage LCC to open applications for TENs to all interested parties (10.3).

RECOMMENDATIONS

a. We would encourage LCC to amend the policy to reflect the need to protect children from harm outweighs commercial gain and refuse new applications and renewals for licences to provide the delivery of alcohol with or without food. Sales of alcohol with food on-premises could be considered with adequate consideration of:

- Comprehensive risk assessment (4.5, page 12)
- Challenge 25/Check 25 (4.36, page 15)
- Staff training for all staff involved (6.49, page 25)
- Mandatory CCTV with 30 day recording (7.2, page 26)
- Personal Licence Holder held responsible for any/all breaches (9.1, page 35)
- Disclosure and debarring service (DBS) certificate (formally CRB) mandatory for holder of Personal Licence (9.5, page 35)

b. We would encourage LCC to open applications for TENs to all interested parties (10.3).

Comments:

The ability to refuse any application under the Licensing Act 2003 is reliant on a relevant representation being received. An application which does not attract a representation is granted automatically, as is required by the legislation. The Statement of Licensing Policy cannot override that statutory process. The policy provides guidance for applicants when they make their application, and for councillors when they are considering contested applications. Even if the council inserts a statement into the policy regarding the sale and delivery of alcohol, this would not enable the council to refuse uncontested applications.

Anyone can make a representation but they must be based on one or more of the four licensing objections. Wetherby Town Council has provided information that suggests the sale of alcohol alongside takeaway food deliveries would have adverse impact on the licensing objective of protection of children from harm. The Town Council are able, as is anyone, to make a representation on this basis to any application. Applications are advertised by site notice and in the local newspaper. In addition all ward members are advised of licence applications as a matter of course.

However, as the council expects every applicant to have read the Policy, it is possible to insert the expectation that robust procedures are in place to ensure that any alcohol is delivered to the person that ordered it, and that the person it is delivered to is over 18.

Please see the separate response on page 5 to the concerns and suggestions regarding the temporary event notice system.

Action: Insert a paragraph relating to alcohol deliveries:

An applicant seeking a licence that will enable them to provide alcohol as part of an alcohol delivery service should include in their operating schedule the procedures they intend to operate to ensure that:

- The person they are selling alcohol to is over the age of 18

- That alcohol is only delivered to a person over the age of 18
- That a clear document trail of the order process from order, despatch from the licensed premises and delivery to the customer is maintained (with times and signatures) and available for inspection by an authorised officer
- The times that alcohol is sold on the website/over the phone and the time the alcohol is delivered is within the hours stated on the licence for the sale of alcohol.

Response from Headingley Network

Thank you for the opportunity to comment on your Draft Licensing Policy 2014-2018.

Our major area of concern is the Cumulative Impact Policy relating to Headingley and specific paragraphs 7.4 – 7.8, each of which has the effect of diluting the policy:

7.4 – The CIP will only act IF RELEVANT REPRESENTATIONS ARE RECEIVED.

7.5 – An applicant MUST IDENTIFY THE STEPS etc. to SATISFY the Council that a new licence WILL NOT ADD TO THE IMPACT

7.6 – APPLICANTS ARE ENCOURAGED TO MAKE EARLY CONTACT... TO DISCUSS THEIR PLANS

7.7 - Despite the CIP, members of the community STILL NEED TO MAKE REPRESENTATION before the Council will implement the CIP

7.8 – The CIP SHOULD NOT BE ABSOLUTE... and licences MAY BE GRANTED if they are unlikely to add to the impact.

These 5 paragraphs all offer encouragement to a Licence applicant to circumvent the CIP, and there is no encouragement to the community and others who seek the protection afforded by the CIP.

I trust this is a drafting oversight and that it is not the council's intention to reduce the effectiveness of the CIP.

Comments: The expected audience for the Statement of Licensing Policy is primarily applicants when they make their application, and for councillors when they are considering contested applications and the policy is written to provide specific guidance for those two groups. The council recognises that it could also provide information and guidance to enable local residents to make effective representations.

Taking the specific comments in detail:

7.4 – The CIP will only act IF RELEVANT REPRESENTATIONS ARE RECEIVED.

This is a statutory requirement. The council is only able to determine applications if relevant representations are received. If no relevant representations are received the council must grant the licence without any further consideration.

7.5 – An applicant MUST IDENTIFY THE STEPS etc. to SATISFY the Council that a new licence WILL NOT ADD TO THE IMPACT

This is the part of the policy that reverses the presumption to grant, which is inherent in the Licensing Act. The ability to set a CIP comes from the Guidance to Licensing Authorities issued by

the Home Office which provides the circumstances under which a licence application can be refused due to the cumulative impact this will have.

7.6 – APPLICANTS ARE ENCOURAGED TO MAKE EARLY CONTACT... TO DISCUSS THEIR PLANS

The council must be fair in its actions, and in some cases encouraging applicants to make early contact can result in a positive outcome for all concerned, without the need for a hearing.

7.7 - Despite the CIP, members of the community STILL NEED TO MAKE REPRESENTATION before the Council will implement the CIP

Previously the Licensing Authority had no ability to make a representation in its own right, and so was reliant on the responsible authorities and local residents to make a representation. However this is no longer the case. The licensing authority will make a representation that states that the application is in a CIP area, and provide the most recent evidence to support that representation. Any representation received by local residents, ward members and responsible authorities would support the licensing authority representation and strengthen the case for refusal.

7.8 – The CIP SHOULD NOT BE ABSOLUTE... and licences MAY BE GRANTED if they are unlikely to add to the impact.

This again is a statutory requirement and one recently reinforced by a judgement in court.

Action: Insert information which will assist local residents in a CIP area. Amend 7.7 as above.

Response from Horsforth Civic Society

Horsforth Civic Society (HCS) reviewed the consultation documents last night.

I have been asked to respond on behalf of HCS.

HCS recognises that Licensing is a complex matter and that it is therefore HCS is not qualified to comment in any detail on the proposals. We therefore recognise the expertise vested in LCC regarding this matter.

On page 30 of the booklet, HCS is pleased to see Horsforth Area 4 retaining its Cumulative Impact Policy status, and that the policy remains unchanged.

HCS is in support of the Statement of Licensing Policy 2014 – 2018.

Comments: None

Action: None

Response from North Hyde Park Neighbourhood Association

Applicability

The Leeds City Council Consultation on the Licensing Policy LA03 for 2014-18 dated May 2013 invites comment from, amongst others

“(f) such other persons as the licensing authority considers to be representative of businesses and residents in its area”.

The North Hyde Park Neighbourhood Association (hereafter NHPNA) has spoken for residents in the area around Hyde Park Corner for nearly 40 years, and trusts that the Licensing Authority will consider the Association as representative in that sense.

General

NHPNA welcomes the general thrust of changes described in the consultation document, in particular the promotion of a Child friendly Leeds, and the removal of the proximity condition for representations. It looks however, to a number of tighter interpretations of the rules and to the vigorous enforcement of the policy in the interests of the community as a whole. Building on the relationship with West Yorkshire is a critical part of this process, and should form a key part of the action plan for the Police and Crime Commissioner.

Noise and Human Rights

NHPNA shares the council’s concerns (Clause 4.22) about noise nuisance, antisocial behaviour and the carry-over from these points into actual crime.

The Association observes that sleep-deprivation is used as a form of torture by despotic regimes, and urges that the human rights provisions of the licence policy (Clause 5.4) should always be enforced quickly and robustly to ensure that residents near a noisy venue have as much right to sleep (2respect for home and private life”) and to listen to their own choice of music (“peaceful enjoyment of his or her possessions”) as the event goers have the right to stay up late and the Licence applicant has to make a noise.

In the area NHPNA represents there are

- Many students working hard to achieve good grades from Universities, and lecturers who need to be compos-mentis to teach them
- A concentration of Nurses, Doctors and support staff working at the two nearby teaching hospitals
- A resurgent number of families moving back into the houses studentified a decade ago, whose children need reliable sleep to learn well and achieve their full potential
- Teachers, care-workers, bus drivers and a thousand other roles necessary for society to function, many from dawn or on shifts starting at 06:00.

So this Association looks forward to Clause 4.28 being interpreted in a way that provides more support for local residents’ right to sleep.

Children and Late-Night Noise

NHPNA believes that if the City Council means what it says about making Leeds a “Child Friendly City” (Clauses 3.8, 3.9 and 3.11) then it must use the flexibility granted to it (Clause 1.7, 4.22) to widely define “Public Nuisance” such that no event in the city may emit noise at the premises boundary above a particular dBA level after 21:00 hrs, a lower one at 23:00 and an absolute overriding prohibition on amplified music outdoors after midnight. Such a ban has some precedents – for example Unity Day has closed earlier in recent years and the outdoor afternoon part of the Devonshire Hall Ball had a time limit this year.

NHPNA recommends that the noise limits include a pitch-specific criterion, as it is low-pitch (bass) notes which carry the furthest and are attenuated the least by walls, trees and windows. A Byelaw of this kind would not prevent clubbers from enjoying themselves at an indoor event; but if indoor, the sound will not disturb others nearby who may well be trying to sleep. In tightly packed residential areas such as this, the “disproportionate impact” noted in Clause 4.23 is all too evident.

TENs

NHPNA notes the inclusion of Temporary Event Notices in the scope of this consultation; these have been the subject of considerable stress to Headingley and Hyde Park residents and this Association urges Leeds City Council to make forceful representations to the Home Office and the Department of Communities and Local Government to redress the balance between the rights of residents and applicants in this naively drafted and inadequately amended piece of national legislation.

In the meantime, NHPNA congratulates the Council for the changes made to its TENs procedures this Spring, and makes the following further practical suggestions for working around the threat posed by noisy, all-night parties of the kind inflicted on this area on the night of 6th – 7th December 2012 (an event which members of this association believe to have fallen squarely into the category of “irresponsible licenced activity” (Clause 1.5)):

1. Use the Licensing Criterion “the protection of children from harm” to block any TENs in urban areas which emit noise after 23:00. Any child getting to sleep after that time will not learn much the following school day, and its life prospects will therefore have been harmed. Furthermore, any children coming into contact with a sleep-deprived Teacher, Doctor, Social Worker, Nurse etc. risk poorer teaching or treatment, also impairing the child’s life chances.
2. Block all Late TENs on the grounds (Clause 5.15) of insufficient time to prepare adequate precautions – this does not just apply to the Applicant’s preparations, but to precautions the event’s neighbours may need to take!

Wider Public Health Issues

NHPNA urges the city council to take heed of the growing incidence of liver disease (tracking alcohol sale deregulation, but with a time lag), and the recently published research pointing out the increased risks of breast cancers from disturbed sleep patterns; adding these factors to the mental health and consequential costs of excessive alcohol consumption suggests that more Applications should be challenged on Public Health grounds.

Cumulative Impact

Headingley has become a clubbing and Stag/Hen destination, quite apart from the Student traditions of the “Otley Run”; after dark in the winter months the sheer number of revellers reeling between

one alcohol outlet and the next can make the area quite threatening to other residents, and the after-effects (vomit, noise, fighting, graffiti) blight the area. The Headingley cumulative impact policy put in place on 2005 has helped a little, but a number of operators have applied for “Alcohol with food” licences only to make the venues much more like pubs or bars – some have attempted to amend their licences, others simply bend the rules. NHPNA urges LCC to retain the Cumulative Impact Policy, and the Designated Public Places Orders which apply to this area.

Many residents would applaud a Licensing approach and an enforcement policy which takes a holistic view on the basis of the balance of risk rather than proof in a criminal court.

If you have any questions or comments on this response, please contact the undersigned in the first instance.

Comments:

Noise and Human Rights

Clause 4.28 is a bulleted list of matters relating to public nuisance which the council may consider when determining licences. These include noise control measures, lighting, customer noise etc. Consideration of the time licensable activities are to take place and proximity of residents would be taken into consideration by the Health and Environmental Act Service when considering a representation under the objective of public nuisance.

Children and Late-Night Noise

NHPNA suggest applying a condition to any event in the city relating to decibel levels of noise being emitted from the premises. This is possible and could be suggested in representations from either members of the public or Health and Environmental Action Service. The Licensing authority does not have the ability to apply conditions without a valid representation.

TENs

Please see the separate response on page 5 to the concerns and suggestions regarding the temporary event notice system.

Wider Public Health Issues

Public health is not a licensing objective as specified in the Licensing Act 2003. The council can only take public health into consideration where it relates to a specific problem at a specific premises and then only if the problem could also have a negative impact on the licensing objectives of crime and disorder, prevention of public nuisance, public safety or protection of children from harm.

Cumulative Impact

The council intends to maintain the cumulative impact in Headingley and extend it to include premises licensed for off sales after midnight. Any decision and enforcement action taken by the licensing authority must be fair, reasonable and proportionate. In addition the council has always taken into consideration the right of applicants to appeal the decision in the Magistrates Court. Therefore although the council would aim to take a holistic view, this must be based on fact rather than speculation.

Action: None

Response from Leeds City Council Environment Act Service

Overview

The Environmental Action Service (EA) welcomes the opportunity to comment on the proposed Leeds Licensing Policy for the period 2014 – 2018. Our Service has considerable experience and history working with partners and residents to successfully support businesses to ensure compliance with the objectives of the Licensing Act 2003 (LA).

Our Service comprises of both the Health and Safety Team and Environmental Protection Team who are both Responsible Authorities under the Licensing Act in their own right. In terms of this response the views are those of our Service as a whole and relate to the prevention of public nuisance and public safety. Having considered the draft policy we are in broad agreement with the proposed changes. The proposed policy has also given us an opportunity to review our own policies in relation to this area of work.

In general terms, whilst the document is reasonably easy to read and understand, further clarity could be achieved by adopting the principles of Plain English.

We feel improvements could be made regarding the relationship between Planning and Entertainment Licensing. This would clarify the role of each service and reduce confusion for applicants and others involved in the process. We would also support the development and implementation of the Early Morning Restriction Orders in certain circumstances. There are clearly areas of Leeds where a wider area based approach is required to ensure compliance with the Licensing Objectives. Additionally the management of venues should play a key role in achieving the objectives. This responsibility should be strengthened and made clearer in the policy document.

Views of the Environmental Protection Team (EPT)

Promotion of Licensing Objectives – Public Nuisance

Whilst assessing the impact of a licensed premises on the local area the EPT will follow the provisions laid down in the LA and associated guidance. Matters that arise within the physical building in question or the immediate area outside within the boundary are under the control of the licence holder etc. Any issues raised in relation to the licensing objectives can be resolved either informally or formally. Responsibility is fairly clear and often a prompt resolution can be achieved usually to the satisfaction of all parties.

However our Service frequently receives complaints concerning patron noise in the vicinity of the subject premises. There is usually considerable debate as to where the responsibility of the business ends when the patrons leave the venue. In assessing new premises applications, variations or reviews this type of issue frequently becomes the major area for discussion and often disagreement between our Service and the business. Quite often the patrons wouldn't be in the area if it wasn't for the venue in question.

We feel that conditions should be used to strengthen the role and responsibility of the licence holder to deal with such matters. Conditions such as 'notices should be displayed to request patrons to be quiet on leaving the premises' may not be sufficient at certain locations. We would wish to see licence holders take a more proactive approach with patrons to reduce the effect of the operation of their business on the local area in terms of public nuisance. Such steps could include the provision of

announcements inside the building and suitable literature or notices within the premises rather than just upon exit.

The Council is able to consider a number of matters following representations from our Service or local residents. Whilst the list of matters in the proposals are useful, we feel that they ignore a number of issues. Consideration should be given to the design, construction and layout of the premises. Additionally a history of relevant complaints can be a valuable source in providing an indication of the likelihood of complaints occurring

The hours of operation of the business can be crucial in terms of the prevention of prevention of nuisance. This should be included in the matters under consideration.

It should be remembered that the role of our Service is the **prevention** of public nuisance. This happens through the provision of advice and support to businesses at all stages. Officers within our team have considerable experience in determining these preventative measures.

Premises Licenses and Club Premises Certificates

In our experience the current relationship and process between Planning and Entertainment Licensing can cause frustration and confusion for the applicant. We feel there should be a clearer description of the relationship between both parties. The current process allows the applicant to either seek planning consent or a premises licence in the first instance. However the revised policy appears to indicate that the applicant should first obtain planning consent for any changes. If this is an intended change this is to be welcomed and should provide clarity for all those involved. We do however feel this could be made clearer in this section. We consider that planning is vital to the licensing process and a clear statement of planning policy in relation is required and should be referred to in this document.

Proformas are used to ensure that the business owner has considered all relevant matters when submitting an application. We feel this approach should be promoted at every opportunity. Indeed we would like to see an application only being accepted upon receipt of a fully and satisfactorily completed proforma. There may however be exceptional circumstances where this may not be appropriate and this should be allowed for.

Linked to the proforma we would like to see the promotion of discussions between all parties at the earliest possible opportunity in the process. All too often these discussions are held far too late to enable a managed solution to any potential problems with an application. A more proactive approach from an applicant would greatly improve this situation.

Cumulative Impact Policies (CIP)

When submitting an application in a CIP it is the applicant's responsibility to ensure that their proposals will meet not only the licensing objectives, but also have no impact on the area in question.

Quite often applications are received with scant information in terms of meeting these criteria. This results in a number of protracted and quite often late discussions between all parties concerned. The policy should ensure that the applicant is encouraged to submit a full and thoroughly considered application at the earliest opportunity. This will assist our Service in providing a response to their firm proposals in a timely manner rather than undertaking the role of designing a scheme to suit

their application. It should be made clear in the policy that the onus is on the applicant to demonstrate to the Responsible Authorities the suitability and detail of the scheme for their site.

Applicants should be encouraged to undertake a proactive approach towards working with partners in such an application. This will ensure that the process works in a timely and efficient manner without unreasonable deadlines being imposed upon partners by the applicants.

Early Morning Restriction Orders (EMRO)

This is a new tool and a potential change for our approach to promoting the licensing objectives. If used correctly this could achieve a far greater and more efficient compliance with these objectives than the current method. We would like to see our Service mentioned as a Responsible Authority and requester of an EMRO. Using an evidence based system we feel is the correct approach which provides credibility to any application and subsequent decision. It would be worth mentioning the role, attendance and aims objectives of the Licensing Enforcement Group.

Additionally the policy should make clear that this process should aim to support businesses rather than hinder in a geographical area whilst ensuring compliance with the objectives. However, where this has deemed to fail then the EMRO could be a possible solution.

Health and Safety Team Comments

Promotion of Licensing Objectives – Public Safety

We would like paragraph 4.16 rewording slightly to read in the following way:

Applicants are advised to consult with the Environmental Health, Health and Safety Team, who can offer advice as to the appropriate measures that may need to be incorporated into the operating schedules. On receipt of relevant representations the Council will have regard to the views of the Health and Safety Team. The team can also offer advice in relation to workplace health and safety matters, including compliance with the Health Act 2006 (smoke free).

Comments: The council welcomes the detailed response from Environmental Health.

HEAS suggest “Indeed we would like to see an application only being accepted upon receipt of a fully and satisfactorily completed proforma.”

The proforma risk assessment is provide to assist applicants in creating an operating schedule. It is not mandatory and cannot be required as it is not a statutory requirement but a local arrangement. The Licensing Act is very clear that conditions must be relevant for each premises, and therefore requiring standard conditions is not acceptable.

HEAS suggest “Consideration should be given to the design, construction and layout of the premises. Additionally a history of relevant complaints can be a valuable source in providing an indication of the likelihood of complaints occurring. The hours of operation of the business can be crucial in terms of the prevention of prevention of nuisance. This should be included in the matters under consideration.”

These are matters that can are considered by the Licensing Committee when making a determination of a contested application. The Licensing Committee is reliant on responsible authorities and other people to make a representation to bring these to their attention, if they believe it is relevant.

Action: Amendment of paragraph 4.16

Amend 8.5 to include Health and Environmental Action Service as a responsible authority who might request an EMRO.

Expand 8.5 to include the role, attendance and aims and objectives of the LEG.

Insert new paragraph that the aim is to support businesses rather than hinder in a geographical area whilst ensuring compliance with the objectives. However where this has deemed to fail then an EMRO could be a possible solution.

Response from South Headingley Community Association

South Headingley Community Association is fully supportive of most of the changes proposed in the Draft Public Consultation Document: Statement of Licensing Policy 2014-2018.

Cumulative Impact Policy

We support the retention of the Headingley/Hyde Park CIP and its increase in scope.

However, we note the proposal to delete the existing Woodhouse CIP, which goes along Woodhouse Lane, past Leeds University and up to Hyde Park Corner. ***We strongly suggest that the Woodhouse CIP is retained***, since the area suffers from the same alcohol related problems as Hyde Park and Headingley – for example, that stretch of road is part of the Otley Run.

Early Morning Restriction Orders

We fully support the procedure for making an EMRO, and the assertion that the Licensing Committee will take into account: "Nuisance statistics compiled from complaints made to Environmental Health in relation to noise, odour and litter nuisance" and "Anecdotal evidence from residents organisations, ward members and other representatives of people living in a specific area".

Temporary Event Notices

We understand that this document is in line with National Legislation, but the legislation is unfit for purpose and incompatible with the effort being put in to restore the residential community of South Headingley (which includes people of all ages). It's not a 'light touch issue', but a serious issue which affects the health of the community. It seems incomprehensible that such a form of event and disturbance is seen as appropriate in a residential area. Are all the efforts and financial costs of residents, community groups and councillors that are being made to re-establish the quality of this area to be squandered by poor quality legislation?

£Thousands are being spent on Health and Wellbeing, yet behaviour which undermines this causing sleep deprivation and stress, is treated as a 'light touch issue', that doesn't need to be authorized by the licensing authority.

It's disgraceful that residents are forced to react and respond to poor quality legislation that should be sound in the first place. We do not want this statement to be another form of bureaucratic letting off of steam – we want action.

The council must re-engage the police with noise and anti-social behavior. A TEN can't be prevented if there is no history of noise held by the police, even if the council is in possession of noise statistics.

As well as the anti-social disturbance of these events there is also collateral criminal damage/vandalism to property and the environment.

Just like the 'legal-high' there is now exploitation of a loophole. This needs to be closed because it's a very serious abuse of the licensing regulations.

When attending the Environment meetings we are told there is nothing we can do about TENs because it is national legislation. If local authorities and residents have more of an understanding of the need for particular legislation, they should have the ability to be able to adjust national regulations.

South Headingley Community Association completely concurs with the issues raised by North Hyde Park Neighbourhood Association, and also wants to emphasize their point relating to the serious damage caused by sleep deprivation - it should not be seen as a nuisance but as something far more deeply damaging, and certainly not something to be dealt with by 'a light touch'.

Allowing these events to take place just confirms the culture of LS6 as Studentville/Party Town and encourages anti-social, irresponsible and inconsiderate behavior.

We support Cllr Janette Walker's push for change with regards to the mis-use of TENs and want her and her colleagues to be given every support. In a time when the funding of councils is being cut back we cannot afford to let the current situation continue, perpetuating an ineffective and therefore expensive bureaucracy.

TENs are an issue which affects the future sustainability of our community. We cannot emphasize enough how a change is needed to national legislation to enable councils to deal with the problem.

Comments: The council notes the request to retain the Woodhouse CIP.

The council works in partnership with the police and its own Health and Environmental Action Service, through the Licensing Enforcement Group which meets regularly to discuss issues relating to licensed premises. Both the Police and Health and Environmental Action Service are able to serve an objection notice to temporary event notices if they consider that they would cause adverse impact on the licensing objectives.

Please see the separate response on page 5 to the concerns and suggestions regarding the temporary event notice system.

Action: Retain the Woodhouse CIP?

Response from a member of the public by letter

Cumulative Impact Policy CIP

I support the retention of the Headingley / Hyde Park CIP and its increase in scope.

However I would strongly object to the proposal to delete the existing Woodhouse CIP (Woodhouse Lane from the University to Hyde Park Corner). There is an enormous amount of alcohol related nuisance in this area, probably more than further north, including lots of broken glass on pavements and noisy alcohol-related shouting and singing at all times of the night especially at weekends.

Early Morning Restriction Orders EMRO

I fully support this idea, including giving weight to nuisance statistics and representations from resident organisations, ward members, and other representations. We have an enormous amount of on-street noise in this area which continues through as late as 7 or even 8 am, disturbing / preventing sleep and greatly affecting health as noisy groups move on from one venue to another or eventually make their way home.

Noisy groups can go past every 5 minutes on noisy nights - leaving other residents barely able to function at work the next day as a result.

Temporary Event Notices TENS

The current TENS legislation is unfit for purpose.

It should not be an argument that the TENS legislation as enacted in Leeds is in line with Government Policy (it is also debatable that the legislation as enacted in Leeds does comply with Government Policy, which is clearly intended to allow reasonable events, wanted by the majority of local residents, and not intended to allow unilateral licences which cause unwanted disturbance to others)

We have found in this area that TENS amount to licences to create unwanted noise and disturbance, which affected communities are powerless to prevent except by trying to persuade TENS applicants to drop their application - which can take an enormous amount of time and effort and which may well not be effective. That is of course assuming we found out about the application, which may well not be the case.

The Leeds Licensing Dept tells us they “have” to approve applications unless the applicant has a proven record of creating a nuisance. The address may already have been subject to complaint, but as long as the person making the application has not had a complaint against them that seems to be OK. Even very strong representations from councillors are disregarded, which surely cannot be right.

There is no duty to consult or even inform other residents in a street that a TENS application has been made - the first other residents may know about it is the event itself.

This includes where the application is for a street party which involves an application to shut off the street to through traffic on a working day and denies other residents access to their parking areas or garages. (The latter requires Highways approval, but how can representations be made to Highways if affected others don't know about the TENS application?)

There is no consideration for, for example, the presence of a high proportion of Muslim families, to whom alcohol consumption is forbidden, who will find drunken revellers celebrating in the street outside their homes especially abhorrent - and a really bad example for their children and young people.

Because there is no duty to inform, when individuals claim at the time of the event that they have a TENS licence there is no way of confirming this.

We are told that TENS licences are still subject to the normal Noise Nuisance regulations, but this is of little help when the individuals holding the event believe that they can make as much noise as they wish and the Noise Nuisance service has been pared to the bone and is unlikely to visit (now reduced to one vehicle for the whole of Leeds to cover out as far as Wetherby, no extra help for events like Carnival which can totally tie up this one vehicle. Our experience in this area is that Noise Nuisance are unable to visit at the time of the disturbance, even when the disturbance continues all night until 9 or 10 am).

It is clear that the TENS legislation is intended to allow things like street parties which have been requested and agreed by the whole street, e.g. for a Royal Wedding or Jubilee. It is clearly not intended for individuals to have private parties, yet this is what is happening under it.

In addition to noise, TENS approvals may well lead to antisocial behaviour such as urinating in people's gardens, disposal of bottles cans and glasses in people's gardens, damage to walls gardens and properties. Street parties in particular can attract a large number of extra people to the area as we have seen in street parties such as the Hesse Riot and at Headingley Mount on Welton Road. Noise from outside parties carries especially far and is even more of a nuisance than noise from house parties.

It is essential that something is done about the TENS legislation. It is not an exaggeration to say that our whole community is under threat from the current way in which the TENS legislation is currently enacted.

At the very least:

1. Neighbours must be informed and consulted about TENS applications.
2. If the majority of people in a street do not want the TENS licence to be granted, it should not go ahead, particularly when the application is for a street party directly outside their home.
3. Representations from Councillors, community groups and local residents must be allowed and taken into consideration when deciding whether to allow a TENS application. TENS applications must not simply be rubber stamped as at present.
4. Much more time is needed for the application to be considered - currently only 10 working days are needed, only 5 for a Late application, which is not long enough for representations against the application to be considered.
5. Applicants must be informed that a TENS is not a licence to make as much noise as they wish.
6. Noise Nuisance must be able to cope with the number of TENS applications granted on a particular day, or they should not be granted.
7. TENS applications which are being made in an area already subject to a high amount of noise nuisance, for example the area around the University, should be given particular scrutiny as to whether it is advisable to grant them.
8. The questions in the Guidance on the Government website must be asked and answered. For example under <https://www.gov.uk/government/publications/your-guide-to-organising-a-street-party>

9. The fee for a TENS application should be considerably higher - though possibly with procedures to reduce or abolish it for a genuine street party wanted by all the residents for occasions like Jubilees etc. £21 is simply too cheap and doesn't allow for the work involved in properly considering the application.

The above has concentrated on the nuisance elements of the effects of Licensing.

But of course restriction of alcohol sales and venues also protects livers from damage and protects the health of individuals, this being especially important in young adults whose livers are especially susceptible and who can suffer lifelong health problems as a result of alcohol excess before the age of 25 years. There is little point in Leeds Alcohol Strategy if Licensing doesn't play its part in protecting the health of individuals likely to drink to excess. As a qualified Clinical Biochemist and also as a qualified Mental Health Social Worker I am probably more aware than others of the health problems related to alcohol excess.

As far as I am aware, I have the support of all the Councillors in Inner North West in my response to this Consultation. Our Councillors have been as distressed as we have been in their inability to control alcohol nuisance in our area, especially as concerns TENS applications but more generally also.

Comments: Please see the separate response on page 5 to the concerns and suggestions regarding the temporary event notice system.

Action: None – the suggestions made are outside the scope of the policy.

Response from a member of the public through the online form

I believe with high unemployment still plaguing the City of Leeds the City must not make any changes that will impact jobs. Furthermore, I do not support the move to limit licences for lap dancing clubs in the city, in particular city centre. Nonetheless I do support restrictions on temporary events, especially if they are in an area that has residents that would be impacted.

Comments: This policy relates to premises licensed to sell alcohol and provide entertainment. The licensing of sex establishments is not within the scope of this policy.

Please see the separate response on page 5 to the concerns and suggestions regarding the temporary event notice system.

Action: None

BRE Code of Practice on Consultation

The consultation is being conducted in line with the BRE Code of Practice on Written Consultation. The consultation criteria are listed below. More information can be found at: <http://www.berr.gov.uk/files/file47158.pdf>

The Consultation Criteria

1) When to consult

Formal consultation should take place at a stage when there is scope to influence the policy outcome.

2) Duration of consultation exercises

Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

3) Clarity of scope and impact

Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

4) Accessibility of consultation exercises

Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

5) The burden of consultation

Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

6) Responsiveness of consultation exercises

Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

7) Capacity to consult

Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

If you have any questions or complaints about the process of consultation on this paper, please contact Susan Holden, Principal Project Officer, Entertainment Licensing, Leeds City Council, Civic Hall, Leeds, LS1 1UR.

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Statement of Licensing Policy 2014 - 2018

Licensing Act 2003

Final

Further copies of this document can be obtained from:

Entertainment Licensing
Leeds City Council
Civic Hall
Leeds
LS1 1UR

Tel: 0113 247 4095

Fax: 0113 224 3885

Email: entertainment.licensing@leeds.gov.uk

Web: www.leeds.gov.uk/licensing

Please note:

The information contained within this document can be made available in different languages and formats including Braille, large print and audio cassette.

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Executive Summary

The Licensing Act 2003 came into effect in 2005.

Under Section 5 of the Licensing Act 2003 the Licensing Authority is required to prepare a statement of principles that they propose to apply in exercising their functions under this Act. This process is to be repeated every three years from 31st January 2005. In 2011 the Government made changes to the Licensing Act 2003 which requires a review of this policy every five years.

Any decision taken by the Council in regard to determination of licences, certificates and notifications should aim to promote the licensing objectives which are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

The policy covers the licensable activities as specified in the Act which are:

- Sale by retail or supply of alcohol
- Regulated entertainment
- Late night refreshment

The policy also has regard to the guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003. Additionally the council has regard for a number of other local strategies such as Vision for Leeds and the Leeds Community Safety Strategy.

The council has the ability to grant licences for premises and certificates for club premises. It also grants personal licences and accepts temporary event notices.

Applicants for premises licences should be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. In addition to this policy the council has prepared local licensing guidance specific to certain areas of the city to assist applicants in preparing their applications and operating schedules.

Where relevant the council consults with the responsible authorities as described in the Act.

Local people and Members of the council are able to have their say and their opinion heard through public consultation on this policy and by making representations about applications for premises licences or requesting reviews of licences for problem premises.

The policy includes four special policies which seek to limit the cumulative effect of licensed premises in certain areas.

Enforcement of the legislation is a requirement of the Act that is undertaken by the council. This policy describes the council's enforcement principles and the principles underpinning the right of review.

Section 1 The purpose and scope of the licensing policy

Purpose of the policy

- 1.1 This policy is prepared under Section 5 of the Licensing Act 2003 and was approved by Leeds City Council as Licensing Authority in xx. It will be kept under review and as a minimum will be reviewed no later than December 2018, unless statute changes. Unless otherwise stated any references to the council are to the Leeds Licensing Authority.
- 1.2 In preparing this policy the council has consulted with and considered the views of a wide range of people and organisations including:
- Representatives of local business
 - Local residents and their representatives
 - Parish and town councils
 - Local members of parliament
 - Representatives of existing licence holders including
 - The British Beer and Pub Association
 - Licensing solicitors
 - The responsible authorities namely:
 - West Yorkshire Police
 - West Yorkshire Fire and Rescue Service
 - Leeds City Council – Health and Environmental Action Service
 - Leeds City Council – Children and Young People Social Care
 - Leeds City Council – City Development
 - Leeds City Council – Director of Public Health
 - West Yorkshire Trading Standards
 - Charitable organisations that deal with the social impact of alcohol misuse
 - Other charitable organisations including Mencap and Victim Support Leeds
- 1.3 This policy also has regard to the guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003.
- 1.4 The council will carry out its functions under the Licensing Act 2003 with a view to promoting the licensing objectives namely:
- The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 1.5 The council adopts the overall approach of encouraging the responsible promotion of licensed activities. However, in the interests of all its residents, it will not tolerate irresponsible licensed activity. Following relevant representations the council will refuse applications, restrict hours and activities or impose conditions where it is appropriate to do so to promote the licensing objectives and/or use effective enforcement to address premises where there are problems, in partnership with key agencies such as West Yorkshire Police, West Yorkshire Fire and Rescue Service, Health and Safety Executive, Crime and Disorder Reduction Partnerships, Director of Public Health and West Yorkshire Trading Standards

- 1.6 This policy is concerned with the regulation of licensable activities on licensed premises, by qualifying clubs and at temporary events. The conditions that the council attaches to the various licences will focus on matters that are relevant to the four licensing objectives and will centre upon the premises that are being used for licensable activities.
- 1.7 The council is aware however that the prevention of public nuisance is not narrowly defined in the Act and can include low-level nuisance perhaps affecting a few people living locally as well as major disturbance affecting the whole community. It may also include, in appropriate circumstances, the reduction of the living and working amenity and environment of other people living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 1.8 The council will monitor the effect of this policy throughout the period it covers through licensing liaison meetings with representatives of licence holders such as PubWatch meetings and also by way of regular meetings with the responsible authorities.

Scope of the policy

- 1.9 This policy covers licensable activities within the Leeds district as defined by the Licensing Act 2003. These are:
- The sale of alcohol
 - The supply of alcohol by or on behalf of a club, or to the order of a member of the club
 - The provision of regulated entertainment
 - The provision of late night refreshment
- 1.10 Advice on whether a licence is required for premises or an event can be obtained from Entertainment Licensing, Leeds City Council.
- 1.11 Throughout this policy the wording will refer to ‘applicants’ for licences. However it should be noted that the principles set out within this policy apply equally to new applications, applications for variations and consideration of any request to review a licence.
- 1.12 The scheme of the Licensing Act is that applicants should make applications and assess what matters, if any, need to be included within the operating schedule to address the licensing objectives. If an application is lawfully made and no relevant representations are received then the council must grant the application. Only if relevant representations are made will the council’s discretion be engaged.
- 1.13 Applicants for premises licences should be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. This policy seeks to provide advice to applicants about the approach they should take to making applications and the view the council is likely to take on certain key issues where representations have been made.

These are published on the council's website. Applicants may also consult with Entertainment Licensing to ensure they have as much information as possible before making their application. Further information is provided in Section 9.

Cultural Activities in Leeds

- 2.6 Leeds has strong artistic and sporting traditions and has the best attended outdoor events in the country. The success of arts and heritage organisations including the Grand Theatre, West Yorkshire Playhouse, Opera North, Northern Ballet Theatre, Phoenix Dance Theatre, Harewood House and the Henry Moore Institute, has helped to attract other major arts and heritage investments such as the award winning Royal Armouries and the Thackeray Medical Museum. The city also boasts a wealth of community based sports heritage and recreational facilities. There is a vibrant voluntary sector including thousands of groups and societies.
- 2.7 Leeds City Council (in common with other local authorities) is a major provider of facilities for public recreation. The Council has a tradition of promoting a wide range of cultural activity for the benefit of the city and district.
- 2.8 Leeds Town Hall is the dedicated public concert hall/performance area in Leeds and the Carriageworks Theatre is dedicated to amateur performance and public use for Leeds. Millennium Square in the city centre is used for public events and entertainment such as the Christmas market and 'Icecube' (a temporary ice rink). The parks at Roundhay, Woodhouse Moor, Potternewton and Middleton are in use for community organised gatherings, fairs and carnivals and Temple Newsam Park is the venue for council promoted public events attracting upwards of fifty thousand people.
- 2.9 Commercially promoted events take place in a variety of locations throughout the district.
- 2.10 Within local communities, groups and associations use church and village halls and community centres for social and fund raising activities. Within the district there are 120 church halls, village halls and schools licensed for regulated entertainment and/or the sale or supply of alcohol.
- 2.11 Leeds has a long established reputation for the encouragement of community and diverse cultural events and public entertainment as an essential aid to community involvement and an increasing sense of common identity.

Section 3 Integrating other guidance, policies, objectives and strategies

- 3.1 In preparing this licensing policy the council has had regard to, and sought to integrate the licensing policy with, the following strategies:
- Vision for Leeds 2011 to 2030
 - Leeds Local Development Framework
 - Leeds Regeneration Framework (and local neighbourhood frameworks)
 - Leeds Alcohol Strategy
 - Leeds City Council – Anti-Social Behaviour Statement
 - Leeds City Council – Environmental enforcement policies.
- 3.2 The council (through its Licensing Committee) may, from time to time, receive reports on other policies, strategies and initiatives that may impact on licensing activity within the remit of the committee. Subject to the general principles set out in this policy and the overriding need to promote the four licensing objectives it may have regard to them when making licensing decisions.
- 3.3 The Committee may, after receiving such reports, make recommendations to the council or other bodies about the impact of the licensing policy on such policies, strategies and initiatives. Equally the Committee may make recommendations relating to the impact of such policies, strategies and initiatives on the licensing policy. This may include recommendations to amend the licensing policy itself.

Vision for Leeds

- 3.4 *Best city in the UK*, that is the key aim of the Vision for Leeds 2011 to 2030. This means:
- Leeds will be fair, open and welcoming.
 - Leeds' economy will be prosperous and sustainable.
 - All Leeds' communities will be successful.
- 3.5 Leeds, like other national and international cities, is faced with a number of key challenges. The city's population is set to rise to around one million, its economy is still recovering from the effects of global recession and the consequences of a changing climate have become all too apparent.
- 3.6 In addressing these challenges, Leeds must continue to be a forward-looking city and have a clear plan for the future, and this is why the Vision for Leeds is important.
- 3.7 This licensing policy seeks to promote the licensing objectives within the overall context of the three aims set out in Vision for Leeds 2011-2030.

Child Friendly

- 3.8 The council has announced its intention for the city to become 'Child Friendly'. This links back to the council's vision which states:
- 'Best city... for children
- Leeds will be a child-friendly city where the voices, needs and priorities of children and young people are heard and inform the way we make decisions and take action.'



- 3.9 There are over 180,000 children and young people in Leeds. To become a child friendly city, and the best city for children and young people, their voices and views need to be heard and responded to, and that they are active participants in their local community and citywide.
- 3.10 The UN convention on the rights of the child sets out the basic rights for children worldwide. The UN developed the model for child friendly city model – a place where children rights are known and understood by children and adults alike, and where these rights are reflected in policies and budgets.
- 3.11 As part of the aim for Leeds to become a child friendly city, the council declared 12 wishes:
In a child friendly Leeds...
1. Children and young people can make safe journeys and can easily travel around the city
 2. Children and young people find the city centre welcoming and safe, with friendly places to go, have fun and play
 3. There are places and spaces to play and things to do, in all areas and open to all
 4. Children and young people can easily find out what they want to know, when they want it and how they want it
 5. Children, young people and adults have a good understanding of children's rights, according to the United Nation Convention on the Rights of the Child
 6. Children and young people are treated fairly and feel respected
 7. Children and young people have the support and information they need to make healthy lifestyle choices
 8. All our learning places identify and address the barriers that prevent children and young people from engaging in and enjoying learning
 9. There are a greater number of better quality jobs, work experience opportunities and good quality careers advice for all
 10. All children and young people have their basic rights met
 11. Children and young people express their views, feel heard and are actively involved in decisions that shape their lives
 12. Places and spaces where children and young people spend time and play are free of litter and dog fouling
- 3.12 This policy is particularly affected by wish 2 – “Children and young people find the city centre welcoming and safe, with friendly places to go, have fun and play” and wish 3 – “There are places and spaces to play and things to do, in all areas and open to all”.

Section 4 Promotion of the licensing objectives

- 4.1 The council will carry out its functions under the Licensing Act 2003 with a view to promoting four licensing objectives. These are:
- The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 4.2 Each objective is of equal importance, and the four objectives will be paramount considerations for the council at all times.
- 4.3 It is for the applicant to decide what, if any, measures to suggest in its operating schedule in order to address any potential concerns that might arise in the promotion of the licensing objectives. Applicants are reminded that measures proposed in the operating schedules will be converted into conditions on their licence.
- 4.4 The council recommends that applicants risk assess their operation against the four licensing objectives to identify potential areas of concern.
- 4.5 Applicants are reminded that responsible authorities or other persons may make representations if they feel that the applicant's proposals do not adequately promote the licensing objectives. An applicant who proposes no measures to promote the licensing objectives may therefore face more representations than an applicant who risk assesses their operation and proposes necessary and proportionate measures.
- 4.6 The council recommends early consultation with responsible authorities. Many responsible authorities have produced guidance which applicants can take into account when assessing whether they need to include any measures in their application to promote the licensing objectives. In addition, many responsible authorities would be prepared to discuss matters on site with an applicant with a view to reaching agreement on measures to be proposed. Contact details for the responsible authorities are available from Entertainment Licensing. Guidance issued by the responsible authorities can be found on the council's website or by contacting Entertainment Licensing.

Crime and Disorder

- 4.7 Under the Crime and Disorder Act 1998, the council must exercise its functions, having regard to the likely effect on crime and disorder in its area, and must do all it can to prevent crime and disorder.
- 4.8 Where its discretion is engaged, the council will seek to promote the licensing objective of preventing crime and disorder in a manner which supports the Leeds Community Safety Strategy, and any local crime reduction strategy.
- 4.9 There are many steps an applicant may take to prevent crime and disorder. The council will look to the Police for the main source of advice on these matters. In accordance with the Secretary of State's Guidance, police views on matters relating to crime and disorder will be given considerable weight.
- 4.10 If relevant representations are made in relation to a premises licence or club premises certificate, the council will consider whether it is necessary to impose conditions to regulate behaviour on the premises and access to them where this relates to licensable activities, and the licensing objectives. Any conditions attached will not seek to manage the behaviour of customers once they are beyond the

direct management of the licence holder, their staff or agents, but may seek to impact on the behaviour of customers on or in the immediate vicinity of premises as they seek to enter or leave.

- 4.11 Conditions will be targeted on deterrence and the prevention of crime and disorder. The council may consider:
- The need for and location of CCTV cameras
 - The need for door supervision
 - The need for a text or radio pager system allowing communication between premises and with the Police
 - Conditions setting capacity limits where this is necessary to prevent overcrowding likely to lead to disorder and violence
 - Membership of a recognised pub watch or similar scheme
- 4.12 Crime and disorder conditions will not seek to control adult entertainment involving striptease and lap dancing, which will be governed by laws in relation to indecency and obscenity, and will be licensed under the Local Government (Miscellaneous Provisions) Act 1982. However, conditions for such adult entertainment may be imposed for reasons of public safety, or the protection of children from harm if they relate to occasional use of the premises for adult entertainment.

Public Safety

- 4.13 The public safety objective is concerned with the physical state of people using the premises. Public safety includes safety of performers appearing at any premises.
- 4.14 On 1 October 2006 the Regulatory Reform (Fire Safety) Order 2005 replaced previous fire safety legislation. The council will not seek to impose fire safety conditions as conditions on licences where the Order applies.
- 4.15 Capacity limits will only be imposed where appropriate for the promotion of public safety or for reasons of crime and disorder. Capacity limits will not be imposed as a condition of the licence on fire safety grounds.
- 4.16 Applicants are advised to consult with the Environmental Health, Health and Safety Team, who can offer advice as to appropriate measures to be included in risk assessments, and potentially in operating schedules. On receipt of relevant representations the council will have regard to the views of the Health and Safety Team. The team can also offer advice in relation to workplace health and safety matters, including compliance with the Health Act 2006 (smokefree).
- 4.17 Conditions requiring possession of certificates on the safety or satisfactory nature of equipment or fixtures on premises will not normally be imposed as those are dealt with by other legislation. However, if it is considered necessary in light of the evidence on each individual case, conditions may be imposed requiring checks on the equipment to be conducted at specified intervals, and evidence of the checks to be retained. Conditions may also seek to require equipment of particular standards to be maintained on premises.
- 4.18 Special considerations will apply to night clubs and similar venues. Applicants are encouraged to consider the Safer Clubbing Guide published by the Home Office and DCMS, which gives advice on these issues.
- 4.19 Special events in the open air or temporary structures raise particular issues. Applicants are referred to other sections of this document where guidance on holding these types of event is given.

Public Nuisance

- 4.20 In considering the promotion of this licensing objective, applicants need to focus on the effect of licensable activities on persons living and working in the area around the premises which may be disproportionate and unreasonable.
- 4.21 Public nuisance in this context is not narrowly defined and can include low level nuisance affecting a few people living locally, as well as a major disturbance affecting the whole community.
- 4.22 Issues will mainly concern noise nuisance, light pollution, noxious smells and litter. These include issues arising from the implementation of the smoking ban where customers may now be more inclined to use external areas of premises.
- 4.23 Where applicants are completing operating schedules the council encourages them to have regard to the location of the proposed or actual premises, and in particular whether proposals may have a disproportionate impact in dense residential areas or near to sensitive premises such as nursing homes, old people's accommodation, hospitals, hospices or places of worship.
- 4.24 Applicants are recommended to consult Environmental Health Services for advice on measures that may need to be incorporated into an operating schedule.
- 4.25 If relevant representations are made, the council will consider whether it is necessary to impose conditions to regulate behaviour on the premises and access to them where this relates to licensable activities, and the licensing objectives. Any conditions attached will not seek to manage the behaviour of customers once they are beyond the direct management of the licence holder, their staff or agents, but may seek to reduce the impact of the behaviour of customers entering or leaving the premises on people living or working near to the premises. The council considers that patrons who are using external smoking areas or shelters are there as a direct result of the licensed premises and are within the control of the licensee.
- 4.26 The council will consider whether issues relating to public nuisance can be effectively dealt with by necessary and appropriate conditions. These conditions will normally focus on the more sensitive periods, for example, noise from premises in the late evening or early morning when residents may be attempting to sleep.
- 4.27 When considering such matters, the council will have regard to representations made by Environmental Health Services, and by local residents.
- 4.28 The council may consider the following matters:
- Whether doors and windows will or can be kept closed after a particular time.
 - Whether other noise control measures such as acoustic curtains or other speaker mounts are required.
 - The fact that lighting outside the premises may help to prevent crime and disorder, but may give rise to light pollution for neighbours.
 - Signs placed at the exit to buildings can encourage patrons to be quiet until they leave the area, and to respect the rights of residents.
 - The size and location of smoking areas and any facilities provided may encourage patrons to use the external areas more extensively than for just smoking and returning to the inside of the premises
 - Provision of litter bins in the vicinity of premises serving hot food after 11pm.
 - Display of contact details or a direct telephone link to a private hire/taxi firm.
- 4.29 The council recognises that it is necessary to balance the rights of local residents businesses and others with those wishing to provide licensable activities, and those who wish to use such facilities.

4.30 Ultimately if it is necessary for the prevention of public nuisance where conditions do not adequately address the issues an application can be refused.

Protection of children from harm

4.31 The council recognises the Leeds Safeguarding Children Board as the responsible authority for the protection of children from harm.

4.32 The protection of children from harm includes protection from physical and psychological harm.

4.33 The council notes that the admission of children to premises holding a premises licence or club premises certificate should normally be freely allowed unless there is good reason to restrict entry or exclude children completely.

4.34 Issues about access of children to premises may give rise to concern:

- where adult entertainment is provided on an occasional basis and is not already licensed under other legislation;
- where there have been convictions of the current management for serving alcohol to minors;
- where the premises have a reputation for allowing under-age drinking;
- where requirements of proof of age is not the norm;
- where premises have a known association with drug taking or dealing;
- where there is a strong element of gambling on the premises; and
- where the supply of alcohol consumption on the premises is the exclusive or primary purpose of the services provided.

4.35 Such situations can be identified through a risk assessment of the operation. In these circumstances, applicants are advised to consider offering appropriate conditions through their operating schedule. In addition, licensees may identify that the access of children to particular parts of the premises poses more risk than others, and seek only to exclude children from areas of highest risk.

4.36 On receipt of relevant representations, the council will consider whether conditions are necessary. If conditions are necessary these may include:

- limitations on the hours when children will be present
- limitation upon the presence of children of certain ages when specified activities are taking place
- limits on the parts of the premises to which children may have access
- age limitations
- limitations or exclusions only when certain activities are taking place
- requirements for an accompanying adult
- full exclusion of people under the age of 18 when any licensable activities are taking place

4.37 In such cases, representations by the Safeguarding Children Board and the Police will be given considerable weight where they address issues regarding the admission of children.

4.38 It is mandatory for premises which sell or supply alcohol to have an age verification policy in place. However, the council favours the Challenge 25/Check 25 type schemes and such a scheme volunteered as part of an operating schedule will be given the appropriate weight when the council determines the licence application.

4.39 No condition will be imposed by the council requiring the admission of children to any licensed premises except in the case of exhibition of film where a mandatory condition is applied to all licences with this activity.

Section 5 General principles

- 5.1 In determining a licensing application the overriding principle will be that each application will be determined on its own merit, having regard to the need to promote the four licensing objectives and taking into account this licensing policy and the guidance issued under Section 182 by the Secretary of State. Where it is necessary to depart from the guidance or this policy the council will give clear and cogent reasons for doing so.
- 5.2 Nothing in this policy will undermine any person's right to apply for a variety of permissions under the Act.
- 5.3 Applicants are reminded of the Government's Alcohol Strategy. Matters set out in the strategy may be relevant to general licensing principles and to one or more of the licensing objectives.

Human Rights

- 5.4 The European Convention on Human Rights makes it unlawful for a public authority to act in a way that is incompatible with a Convention right. The council will have particular regard to the following relevant provisions of the European Convention on Human Rights:
- Article 6 that in determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
 - Article 8 that everyone has the right to respect for his home and private life.
 - Article 1 of the first protocol that every person is entitled to the peaceful enjoyment of his or her possessions.

Impact of Licensed Activity

- 5.5 Where no representations are made the council will grant a licence subject to conditions consistent with the operating schedule.
- 5.6 When determining any application where relevant representations are made, the council will consider it in the light of the four licensing objectives and in order to support a number of other key aims and purposes as set out in this policy. The requirement to promote the licensing objectives will be the paramount consideration. The council will focus upon the impact of the activities taking place on members of the public living, working or engaged in normal activity near the premises.
- 5.7 Where relevant representations are made in relation to a premises licence, club premises certificate or temporary event notice the following factors will normally be taken into account when the council is looking at the impact of the activities concerned:
- the style of operation, the numbers of customers and customer profile likely to attend the premises
 - the location of the premises and the proximity of noise sensitive properties
 - the proposed hours of operation
 - the transport arrangements for customers attending or leaving the premises and any possible impact on local residents or businesses
 - any proposed methods for the dispersal of customers
 - the scope for mitigating any impact
 - the extent to which the applicant has offered conditions to mitigate the impact
 - how often the activity occurs

- 5.8 In considering any application for a variation to a premises licence or club premises certificate where a relevant representation has been received, the council may take into account, in addition to the above matters, any evidence:
- of past demonstrable adverse impact from the activity especially on local residents or businesses
 - that, if adverse impact has been caused, appropriate measures have been agreed and put into effect by the applicant to mitigate that adverse impact
- 5.9 Other relevant matters may be considered as the individual case dictates.

Special Events in the Open Air or in Temporary Structures

- 5.10 The promotion and the organisation of live musical and similar entertainment in the open air or in temporary structures like marquees etc. can provide opportunities for community involvement, civic pride and can attract visitors to the district.
- 5.11 However, the success of such events by way of contribution to the council's cultural and tourist strategies depends upon the quality, levels of safety and consideration for the rights of people who live or work in the vicinity and the standard of provision of facilities for those coming to enjoy the event.
- 5.12 In recognition of the special factors that are relevant, particularly with respect to major open air events such as a pop festival or events like the Leeds Mela, the council has established a multi-agency forum to assist organisers in co-ordinating such events. This includes council departments who have an interest in or legislative role relevant to such events, together with representatives of the various emergency services.
- 5.13 Members of the forum are notified about all proposals to hold such events and where necessary a special meeting will be organised in order to consider any issues that will require to be addressed and to open up lines of communication with organisers.
- 5.14 A useful document which organisers are recommended to obtain is 'The Event Safety Guide' (known as the purple guide), published by the Health & Safety Executive. This is currently being revised and organisers are advised to check online for the latest version.
- 5.15 Guidance on the planning of such events is available to organisers but it is important that substantial notice is given so that proper preparations and precautions can be put in place for the event. This also applies if the event is proposed under a Temporary Event Notice.

Community Applicants

- 5.16 Whilst this policy is aimed at all licensable activities under the Licensing Act 2003 it should be noted that the council sees a distinction between large or permanent activities, such as those proposed by commercial operators and small or temporary activities such as those which might be proposed by cultural or community groups.
- 5.17 Where events are proposed by cultural or community groups, it is recognised that those groups may not have the same skill or expertise or access to professional advice. Such groups may seek assistance and guidance from the council by contacting Entertainment Licensing.
- 5.18 Whatever the nature of the applicant and activity proposed, the overriding matter is that the council will consider the individual merits of the application and act so as to promote the licensing objectives.

Other Regulatory Regimes

- 5.19 The licensing policy is not intended to be the primary mechanism for the general control of nuisance, anti-social behaviour and environmental crime but nonetheless is a key aspect of such control and the licensing policy and licensing decisions are intended to be part of an holistic approach to the delivery of the council plan and the management of the evening and night time economy of the Leeds district.
- 5.20 In preparing this policy the council has sought to avoid unnecessary duplication of existing legislation and regulatory regimes. However on occasions it has been necessary to set out some of the detail in this policy for ease of understanding. Nothing in this policy is intended to revoke or replace the need for applicants to act in accordance with legal requirements. All applicants are advised to seek proper advice to ensure that the activities they propose are within the boundaries set by existing legislation and regulations.

Application Process

- 5.21 Applications must be made to the council in the form prescribed by Regulations. Guidance is available to applicants setting out the detail of the process.

Licensing Committee

- 5.22 The council has appointed a licensing committee of 15 Councillors. Licensing functions will often be delegated to a licensing subcommittee of 3 Councillors or, in appropriate cases to officers of the council.
- 5.23 Councillors will have regard to the Leeds City Council Code of Conduct for Members. Where a Councillor who is a member of the Licensing Committee or subcommittee has a disclosable pecuniary interest in the application before them, in the interests of good governance they will disqualify themselves from any involvement in the decision making process in respect of that application.
- 5.24 A subcommittee may refer an application to another subcommittee or to the Licensing Committee where it is unable to deal with the application because of the number of members unable to vote on the matter in question.
- 5.25 The Licensing Committee will refer an application to the council where it is unable to deal with the application because of the number of members unable to vote on the matter in question.

Representations

- 5.26 Depending on the type of application representations may be made by a responsible authority or other persons (as defined by the Licensing Act 2003). The council has agreed protocols with responsible authorities and issued guidance to other persons making representations, setting out the detail of the process. Guidance is available on the council website or by contacting Entertainment Licensing.
- 5.27 Members of the public who wish to submit a representation in regards to a premises licence or club premises certificate application need to be aware that their personal details will be made available to the applicant. If this is an issue they may contact a local representative such as a ward, parish or town councillor or any other locally recognised body such as a residents association about submitting the representation on their behalf. The council is not able to accept anonymous representations. In addition the council cannot accept petitions which do not follow the guidance on the council's website.

- 5.28 Where a representation is received which is not from a responsible authority the council will in the first instance make a judgement on whether it is relevant, i.e. based upon one or more of the four licensing objectives.
- 5.29 `Relevant representations' are representations:
- about the likely effect of the premises licence on the promotion of the licensing objectives;
 - which have not been withdrawn and are not, in the opinion of the council, frivolous or vexatious.
- 5.30 Where relevant representations are received about an application the council will hold a hearing to consider them unless the council, the applicant and everyone who has made representations agree that the hearing is not necessary. Applicants and those making representations should seek, in advance of any hearing, to try to reach agreement or to narrow the areas in dispute, particularly where both are professionally represented.
- 5.31 Where hearings are required as a result of relevant representations, the council may extend the time limits involved in calling hearings in order to allow the parties to negotiate suitable conditions to be added to the operating schedule and avoid the need for a hearing. Such an extension of time is considered to be in the public interest.

Reasons for Decisions

- 5.32 Every decision made by the Licensing Committee, subcommittee or officers shall be accompanied by clear reasons for the decision.

- 6.1 A premises licence and club premises certificates authorises the sale or supply of alcohol, regulated entertainment and late night refreshment (sale of hot food and drink after 11pm). Businesses wishing to apply for a licence or certificate must use the prescribed form which includes details of the hours of operation, any hours for licensable activities and an operating schedule.

Planning

- 6.2 The use of premises for the sale or provision of alcohol, regulated entertainment or late night refreshment is subject to planning control. Such use will require planning permission or must otherwise be lawful under planning legislation. Planning permission is generally required for the establishment of new premises or the change of use of premises.
- 6.3 In line with the S182 Guidance the planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa.
- 6.4 Where businesses have indicated, when applying for a licence under the Act, that they have also applied for planning permission or that they intend to do so, licensing committees and officers will consider discussion with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.
- 6.5 Where relevant representations are received, any decision on a licence application will not consider whether any decision to grant or refuse planning permission or building consent was lawful and correct. It will take into account what the impact of granting the application will be on the four licensing objectives.
- 6.6 In general, all premises which are the subject of an application, should have the benefit of planning permission, or be deemed permitted development. The onus will be on the applicant to demonstrate that planning permission has been granted or that the premises have the benefit of permitted development rights. Failure to do so may result in representations and the licence being refused or granted subject to conditions which take account of the planning permissions in existence.
- 6.7 In addition, all new developments and premises which have been subject to structural alterations since 1994 will have building control approval in the form of a Building Regulations Completion Certificate. The onus will be on the applicant to demonstrate that any structural alterations have been approved by building control. Failure to do so may result in representations and the licence being refused or granted subject to conditions.

Licensing Hours

- 6.8 The government acknowledges that different licensing approaches may be appropriate for the promotion of the licensing objectives in different areas. The Act gives the Council the power to make decisions regarding licensed opening hours based on local knowledge and in consultation with other responsible authorities.
- 6.9 In some circumstances, staggered licensing hours with regards to the sale of alcohol are important to ensure that the concentration of customers leaving premises simultaneously is reduced. The intention behind this is to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport which currently lead to disorder and disturbance.

- 6.10 Providing the customers with greater choice is an important consideration in the development of a thriving and safe evening and night-time economy in Leeds. However any licensable activity has the potential to impact adversely on the surrounding area due to disturbance or crime and disorder. Customers may be noisy when leaving, leave litter or use on-street car parking. The impact of these activities can be particularly intrusive at night when ambient noise levels are much lower.
- 6.11 The council supports the development of a wide ranging and culturally diverse night-time economy where this can be achieved whilst promoting the four licensing objectives and without compromising the ability to resource local services associated with the night-time economy such as street cleansing.
- 6.12 Under the Act there are no permitted hours for the sale of alcohol. Applicants are able to suggest in their operating schedule the hours they wish to open and to apply to vary their existing licences if they wish to open beyond their current permitted hours. However, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives will be the paramount consideration at all times.
- 6.13 If relevant representations are made the council will only grant the hours of use proposed where the operating schedule and any risk assessment adequately demonstrates that:
- the applicant has properly considered what is appropriate for the local area when considering what hours and activities to apply for
 - the potential effect on the licensing objectives is not significant
 - the agreed operating schedule demonstrates that the applicant is taking appropriate steps to minimise any adverse impact on local residents and businesses
- 6.14 Restrictions may be made to the proposed hours of use where, after receiving relevant representations, the council considers it appropriate for the promotion of the licensing objectives to do so. The council will take into account the existing pattern of licensed premises in an area when considering what is appropriate to promote the objectives. Applications which are significantly out of character for a locality will need to demonstrate that granting the hours sought will not impact on the licensing objectives, given the potential for neighbouring premises to seek the same additional hours to prevent rivals gaining a commercial advantage.
- 6.15 As a general rule shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.

Local, national and international occasions

- 6.16 It should be possible for applicants for premises licences and club premises certificates to anticipate special occasions which occur regularly each year, for example bank holidays, and to incorporate appropriate opening hours for these occasions in their operating schedules.
- 6.17 Additional occasions for which extensions may be required may be covered by a Temporary Event Notice.

Drinking up time

- 6.18 The traditional 'drinking up time' was not carried over into the Licensing Act 2003. However the hours during which applicants are licensed to sell or supply alcohol and the opening hours need not be identical and therefore applicants of premises licensed for the on-sale of alcohol are recommended to consider a drinking up/cooling down period during which music volume may be reduced, customers may consume their drinks and make arrangements for transport from the premises. The council considers that a 30 minute drinking up time will assist in the gradual dispersal of customers and consequently reduce impact on the area.

- 6.19 Where relevant representations are made the council will consider imposing a condition on drinking up time where such a condition is appropriate in order to promote the licensing objectives in any individual case.

Operating Schedules

- 6.20 Under the Licensing Act 2003 applicants are required to complete an 'operating schedule'. Applicants are expected to have regard to the council's Statement of Licensing Policy. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives.
- 6.21 Operating schedules are the key to ensuring that the four licensing objectives are promoted. An operating schedule should include enough information to enable any responsible authority or other person to assess whether the steps to be taken to promote the licensing objectives are satisfactory.
- 6.22 Whilst applicants are not required to seek the views of responsible authorities before formally submitting their application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application. The council encourages co-operation between applicants, responsible authorities and, where relevant, local residents and businesses before applications are submitted in order to minimise the scope for disputes to arise.
- 6.23 Other publicly available sources which may be of use to applicants include:
- the Crime Mapping website;
 - Neighbourhood Statistics websites;
 - websites or publications by local responsible authorities;
 - websites or publications by local voluntary schemes and initiatives; and
 - on-line mapping tools.
- 6.24 Applicants should make their own enquiries and demonstrate how they have considered the following in their operating schedule:
- The layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children and young persons may congregate.
 - Any risk posed to the local area by the applicants' proposed licensable activities; and
 - Any local initiatives (for example, local crime reduction initiatives or voluntary schemes such as local taxi-marshalling schemes, street pastors and other schemes, which may help mitigate potential risks.
- 6.25 The council expects individual applicants to complete the operating schedule in a manner that is specific to the application being made in respect of those premises and the licensable activity to be carried on rather than in general or standard terms. Information should be given to demonstrate how the individual application proposes to address and promote the licensing objectives. Applicants are referred to paragraphs 10.7 to 10.11 below which contain information on carrying out a risk assessment.
- 6.26 Any application or operating schedule not completed in accordance with the Act and the regulations may be returned to the applicant unprocessed with a request to complete the forms correctly before the application is accepted by council.

Risk assessments

- 6.27 The council recommends that applicants complete a risk assessment of their business in order to understand what steps are required to complete the operating schedule in a manner which enables the council and responsible authorities to assess how they will seek to promote the licensing objectives.
- 6.28 The council is aware that any risk assessment will vary according to the nature of the business. It is for applicants to decide what is appropriate in each case. To assist applicants in completing their operating schedules the council has devised a risk assessment proforma and suggested wording for volunteered conditions. A copy may be obtained from the Entertainment Licensing Section. A special risk assessment proforma designed for outdoor events and broadly based on the 'Purple Guide' is also available.
- 6.29 The risk assessment contains many of the key factors which the responsible authorities will be expecting applicants to meet in order to fulfil the licensing objectives. The contents are not exhaustive but the risk assessment approach will reduce the possibilities of adverse representations.
- 6.30 It is recognised that some areas of the risk assessment may duplicate issues which applicants have previously addressed in order to satisfy other legislation. Where this does occur the operating schedule may cross reference to alternative documents.
- 6.31 The council recognises that it cannot insist on a risk assessment. However an applicant who decides not to complete or provide a risk assessment may face additional representations and the expense of hearings as a result. If a risk assessment is not completed then applicants will need to demonstrate how these matters have been addressed through the operating schedule provided.

Local Licensing Guidance

- 6.32 Each locality has its own character and challenges. In order to assist applicants, where there is an issue in a local area which impacts on how the applicant should complete the operating schedule, the council has published local licensing guidance. This guidance which is compiled through the Area Committee and approved by the Licensing Committee can be obtained from Entertainment Licensing.
- 6.33 The local licensing guidance should be given careful consideration when making an application. Applicants may be asked to attend a meeting with licensing officers to discuss the measures suggested in the guidance and how they might be relevant to their application. The Local Licensing Guidance will be presented to any subsequent Licensing subcommittee when they determine an application that has received representations.
- 6.34 The council recognises that it cannot insist on applicants using the local licensing guidance when completing their operating schedules. However an applicant who decides to disregard the guidance may face additional representations and the expense of a hearing as a result.

Dispersal

- 6.35 There has been concern for many years that a lack of transport provision in the city centre during the early hours of the morning may contribute to an increase in disorder incidents, especially in the Albion Street area. One of the initiatives to address this problem in the past has been to provide night buses, however these were not well used as people prefer the small luxury of getting a taxi or private hire vehicle home.
- 6.36 The council is working with West Yorkshire Police to seek solutions to this issue and will keep the situation under review seeking regular reports from West Yorkshire Police and Traffic Management.

Excessive Consumption of Alcohol

- 6.37 The council is acutely aware of the link between the supply of alcohol that is subject to certain promotions and the possibility of resultant incidents of alcohol related crime and disorder and implications for public safety, public nuisance and the risk of harm to children.
- 6.38 The council also recognises the impact that excessive or binge drinking can have on public health and that positive action on promoting the licensing objectives is equally likely to have an indirect impact on public health.
- 6.39 The British Beer and Pub Association states that a promotion is irresponsible where it encourages or incites individuals to drink to excess, behave in an anti-social manner or fuels drunkenness. The council as the licensing authority will use the powers contained within the Licensing Act to ensure operators' promotional activities do not undermine the licensing objectives.
- 6.40 In April 2010 new mandatory conditions came into effect which:
- Ban irresponsible promotions;
 - Ban the dispensing of alcohol directly into the mouth; and
 - Ensure that customers have access to free tap water so that they can space out their drinks and not get too intoxicated too quickly.
- 6.41 The legislation makes it clear that an irresponsible promotion is one that is "carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carried a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance or harm to children".
- 6.42 As a consequence any on-trade premises that participates in irresponsible drinks promotions will be breaching licence conditions and will be dealt with in accordance with the council's "Leeds Responsible Authority Liaison and Joint Enforcement Protocol - Licensing Act 2003" which is available from the Leeds City Council website and may be subject to a review of their licence.

Conditions

- 6.43 The council may only impose conditions where relevant representations are made following an application to grant or vary a licence or where a review request is being considered.
- 6.44 The council recognises that the only conditions that should be imposed on a licence are those which are appropriate and proportionate to the promotion of the licensing objectives. There may be circumstances where existing legislation and regulations already effectively promote the licensing objectives and no additional conditions are required.
- 6.45 Where conditions are imposed they will be tailored to the individual style and characteristics of the premises and events concerned.
- 6.46 Applicants are strongly encouraged to make early contact with the appropriate responsible authorities to discuss proposed conditions in advance of the submission of their application to the council.

Designated Premises Supervisor

- 6.47 An applicant for a premises licence which includes the sale and supply of alcohol must nominate a Designated Premises Supervisor (DPS). That person will normally have been given day to day responsibility for running the premises. The DPS will also be in possession of a personal licence. The Act does not require the presence of the DPS at all material times.

- 6.48 The DPS will be readily identifiable on the premises as a person in a position of authority. No sale or supply of alcohol may be made at a time when no DPS has been specified on the licence or at a time when the DPS does not hold a Personal Licence.

Staff Training

- 6.49 The council recommends that all persons employed on licensed premises who are engaged in the sale and supply of alcohol be encouraged to attend training programmes to raise awareness of their responsibility and particularly of the offences contained within the Act. Similarly persons employed at on-licensed premises should be encouraged to attend training programmes which will raise their awareness of the issues relating to drugs and violence in licensed premises, and that suitable training be extended to all staff involved in managing or supervising the premises.
- 6.50 It is also recommended that persons employed on premises providing entertainment for children and youths attend training programmes in basic child protection and safety, and if appropriate have the necessary DBS checks.
- 6.51 All persons employed on licensed premises should be provided with in-house training on basic public safety and the housekeeping arrangements relative to those premises.

Club Premises Certificate

- 6.52 The Act recognises that premises to which public access is restricted and where alcohol is supplied other than for profit, give rise to different issues for licensing law than those presented by commercial enterprises selling direct to the public. For this reason qualifying clubs may apply for a Club Premises Certificate as an alternative to a premises licence.
- 6.53 A Designated Premises Supervisor and Personal Licence Holders are not required where a Club Premises Certificate is in force. However, an applicant for a Club Premises Certificate is still required to act in a manner which promotes the licensing objectives. An application for a Club Premises Certificate must be in the form prescribed by regulations.
- 6.54 Any qualifying club may choose to obtain a Premises Licence if it decides that it wishes to offer its facilities commercially for use by the public, including the sale of alcohol. Any individual on behalf of the club may also provide Temporary Events Notices. The council has issued guidance to clubs on applying for a Club Premises Certificate.

Community Halls

- 6.55 The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls etc) Order 2009 amends the Licensing Act 2003 to allow management committees of community premises to make an application for a premises licence or to vary an existing premises licence which includes an application to remove the requirement of a designated premises supervisor and the authorisation of the sale of alcohol by a personal licence holder.
- 6.56 The council has issued guidance to community premises on this process which can be accessed on the council's website.

Minor Variations

- 6.57 It is now possible to make small changes to premises licences or club premises certificates through the minor variation process, which is cheaper, easier and quicker than the full variation process. The test for whether a proposed variation is 'minor' is whether it could impact adversely on any of the four licensing objectives. The council has issued guidance on this process which can be accessed on the council's website.

Alcohol Deliveries

- 6.58 An applicant seeking a licence that will enable them to provide alcohol as part of an alcohol delivery service should include in their operating schedule the procedures they intend to operate to ensure that:
- The person they are selling alcohol to is over the age of 18
 - That alcohol is only delivered to a person over the age of 18
 - That a clear document trail of the order process from order, despatch from the licensed premises and delivery to the customer is maintained (with times and signatures) and available for inspection by an authorised officer
 - The time that alcohol is sold on the website/over the phone and the time the alcohol is delivered is within the hours stated on the licence for the sale of alcohol.

Section 7 Cumulative Impact Policy

- 7.1 Cumulative impact means the potential impact on the promotion of the licensing objectives where there are a significant number of licensed premises concentrated in one area.
- 7.2 The licensing policy is not the only means of addressing such problems. Other controls include:
- planning controls
 - CCTV
 - provision of transport facilities including taxi ranks
 - Designated Public Places Orders
 - police powers
 - closure powers
 - positive measures to create safer, cleaner and greener spaces.
 - Voluntary or best practice schemes such as Street Wardens, Street Angels or Taxi Marshals
- 7.3 The council encourages the development of a variety of premises providing a range of licensed activities catering for a wide range of users. Any policy adopted from time to time on the cumulative impact of licensed premises imposes restrictions only to the extent that they are justified by the available evidence having regard to the guidance issued by the Secretary of State.

Applications

- 7.4 A cumulative impact policy creates a rebuttable presumption that applications within the designated cumulative impact area for new premises licences or variations that are likely to add to the existing cumulative impact will normally be refused if relevant representations are received. It is for the applicant to demonstrate that their application would not add to the cumulative impact of such licensed premises in the area.
- 7.5 An applicant wishing to obtain a new or varied licence for premises falling within any of the cumulative impact areas must identify, through the risk assessment process (if used) and operating schedule, the steps that he or she intends to take so that the council and responsible authorities can be satisfied that granting a new licence will not add to the impact already being experienced.
- 7.6 To assist this process applicants are encouraged to submit a full and thoroughly considered application at the earliest opportunity. The onus is on the applicant to demonstrate to the responsible authorities the suitability and detail for their site. The applicant is encouraged to make early contact with the responsible authorities to discuss their plans, and suggested control measures. Applicants should also have particular regard to the guidance issued by the Home Office under section 182 of the Act.
- 7.7 Despite the presumption against grant, responsible authorities and other persons will still need to make a relevant representation before the council may lawfully consider giving effect to its cumulative impact policy. The licensing authority, in its role as a responsible authority and in consultation with the relevant ward members, will make a representation to any application received in a cumulative impact area. This representation will include the latest evidence in relation to that cumulative impact policy area. Any other representations, from responsible authorities and members of the public, which are based on the negative effects of cumulative impact will stand in their own right, but will also support and strengthen the licensing authority representation.

7.8 The council recognises that a cumulative impact policy should not be absolute. The circumstances of each application will be considered properly and application for licences that are unlikely to add to the cumulative impact on the licensing objectives may be granted. After receiving representations in relation to a new application or for a variation of a licence, the licensing authority will consider whether it would be justified in departing from its cumulative impact policy in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. If the council decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of the licensing objectives and that necessary conditions would be ineffective in preventing the problems involved.

Cumulative Impact Policies

7.9 The council has applied a cumulative impact policy in five areas of the Leeds district:

- the city centre (Area 1)
- Headingley/Hyde Park (Area 2)
- Woodhouse (Area 3)
- Chapel Allerton (Area 4)
- Horsforth (Area 5)

7.10 These areas have been identified because evidence shows that the cumulative impact of the number and concentration of licensed premises in these areas continue to adversely affect the promotion of the following licensing objectives:

- prevention of crime and disorder
- the prevention of public nuisance.

7.11 A summary of the evidence of the problems being experienced in these areas is included in this policy. A full report may be accessed via the council's website or from Entertainment Licensing.

7.12 The council consulted on the draft policies as part of the wider consultation on the council's revised draft licensing policy. The consultation was carried out with:

- The responsible authorities
- Licensees and those representing licensees
- Local residents and businesses
- Those representing local residents and businesses.

7.13 The council is also aware that the police have concerns related to the concentration of premises in the localities of Pudsey, Armley, Otley and Guiseley. The council, in conjunction with the responsible authorities, will be keeping these areas under review during the life of the policy in case it becomes necessary to instigate formal cumulative impact investigation. Applicants wishing to apply for new licences or variations in these areas should note this paragraph and tailor their operating schedules accordingly.

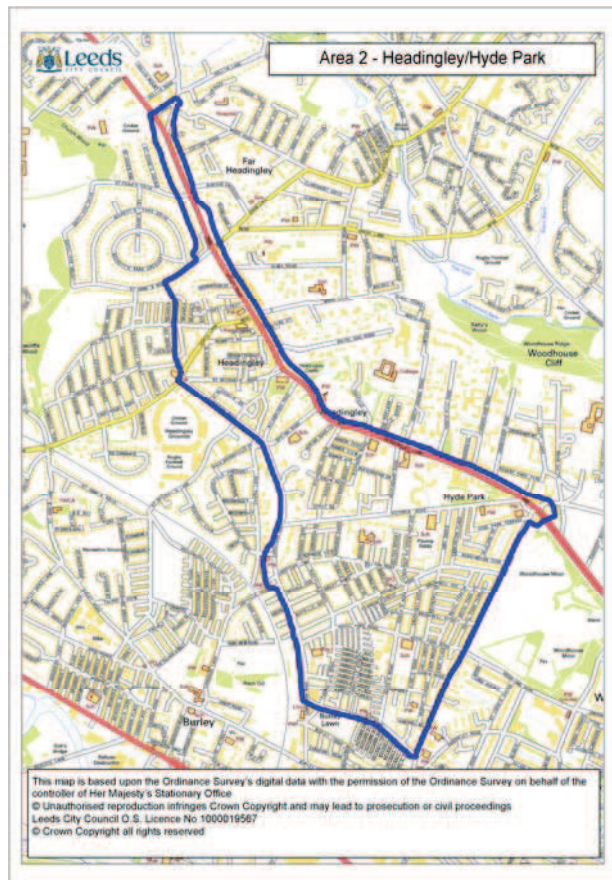
7.14 The council will keep the cumulative impact areas under an annual review. Applicants should contact Entertainment Licensing to ensure they are in possession of the latest information before making their application.

Area 1 – City Centre

- 7.15 Area 1 relates to the city centre. West Yorkshire Police have provided information that the nature of the city centre is such that the problem areas and cumulative impact is directly related to the style of businesses opening in that area and their clientele.
- 7.16 In addition the close proximity of a number of venues on a street can result in difficulties in identifying individual premises as causing problems which can be dealt with via an action plan or a review process.
- 7.17 As a consequence the closure or opening of businesses can have a dramatic effect on reported crime and reported incidents in an area. While individual premises are dealt with using the review process, there are areas in Leeds city centre which may temporarily become saturated as new businesses open or existing businesses change their style of operation.
- 7.18 In addition the council recognises that a previous problem area can be improved by the introduction of new styles of business types, such as food led premises, and seeks to encourage this.
- 7.19 This dynamic nature has created difficulties in setting a policy for the city centre that will be relevant for five years until the next formal review. Therefore the council will adopt an approach of designating areas within the city centre CIP as 'red' or 'amber' based upon an analysis of night time economy related issues that are relevant to the licensing objectives. Areas that are considered highly saturated will be designated as red areas.
- 7.20 The council will seek to refuse all applications in these **red areas** on the basis that the impact on the licensing objectives are at such a level that the area cannot support any more premises opening or extending their hours no matter how impressive the concept or application is. The council will only grant applications in the red zone in exceptional cases.
- 7.21 An **amber area** is an area which is of concern based upon an analysis of night time economy related issues that are relevant to the licensing objectives, and the council will expect applicants to offer additional measures tailored to the problems in that area.
- 7.22 All other areas within the city centre CIP will be designated **green areas** where good quality applications will be generally be more acceptable even though the area is a CIP area.
- 7.23 The current map and evidence is available on the council's website and from Entertainment Licensing.
- 7.24 It is the council's policy, on receipt of relevant representations, to
- refuse new and variation applications in the red area
 - to seek additional measures for new and variation applications in the amber area
 - To seek good quality applications for application in the green area
- 7.25 This applies to alcohol led premises such as bars, pubs and nightclubs, and for premises seeking late night refreshment such as takeaways and late opening restaurants.

Area 2 – Headingley/Hyde Park

7.26 Area 2 relates to the Headingley and Hyde Park districts of Leeds as defined within the blue boundary. It also includes premises on both sides of the boundary roads.



7.27 The Headingley cumulative impact policy was put in place in 2005 and has worked well in ensuring that the adverse effect of an accumulation of licensed premises in Headingley has not increased.

7.28 There have been ongoing problems, both public nuisance and anti-social behaviour in the Hyde Park area which can be attributed to licensed premises. For this reason the geographical area of the CIP was increased in 2011 to include the problem areas.

7.29 There is evidence that the lengthening of the opening hours of premises had an impact on the area. For this reason the scope of the policy was increased to include variation applications.

7.30 There is new evidence that the increase in 24 hour opening off licences has led to an increase in reported nuisance complaints.

7.31 It is the council's policy, on receipt of relevant representations, to refuse new and variation applications in Area 2 for the following premises:

- Alcohol led premises such as bars, pubs and nightclubs
- Café bars and restaurants
- Premises seeking late night refreshment such as takeaways and late opening restaurants
- Premises seeking to sell alcohol for consumption off the premises after midnight, such as off licences and convenience stores.

7.32 It is for the applicant to demonstrate that their application would not add to the cumulative impact of such licensed premises in the area.

Area 3 – Woodhouse

- 7.33 Area 3 as defined on the map relates to the arterial road (the A660) linking Area 1 (City Centre) and Area 2 (Headingley District).



- 7.34 When the council approved its first statement of licensing policy it contained a cumulative impact policy for the area shown in the above appendix. At that time the council had concerns that by adopting policies in respect of areas 1 and 2 that there could be a tendency to displace either the crime and disorder or public nuisance impact into Area 3. The council was also mindful of police representations from West Yorkshire Police that also backed up this concern.
- 7.35 The most recent evidence and public consultation responses gathered in respect of Area 3 shows that the A660 corridor still experiences a greater proportion of alcohol related crime and antisocial behaviour than the rest of the Hyde Park/Woodhouse area. The police attribute this trend to the high concentration of licensed venues in the area. There are also worrying signs that displacement of problems may be taking place as evidenced by the strong responses received during the consultation process about public nuisance problems and alcohol fuelled anti-social behaviour and criminal damage.
- 7.36 It appears that the proximity of the Headingley area and its significant concentration of venues coupled with the growing number of premises licensed into the early hours of the morning to the north of the city centre and along the A660 corridor is causing problems related to the licensing objectives. The evidence suggests that there is likely to be movements of inebriated people who may have a tendency to loud and disorderly behaviour late at night, either travelling into the city centre from Headingley, or travelling out of the city centre towards Headingley. The council takes the view that the existing policy should be retained as follows to ensure that these problems are not allowed to worsen.
- 7.37 It is the council's policy in respect of Area 3 that, on receipt of relevant representations, necessary conditions will be applied to all premises licences in the area to ensure that the problems experienced in Areas 1 and 2 are not displaced into Area 3.

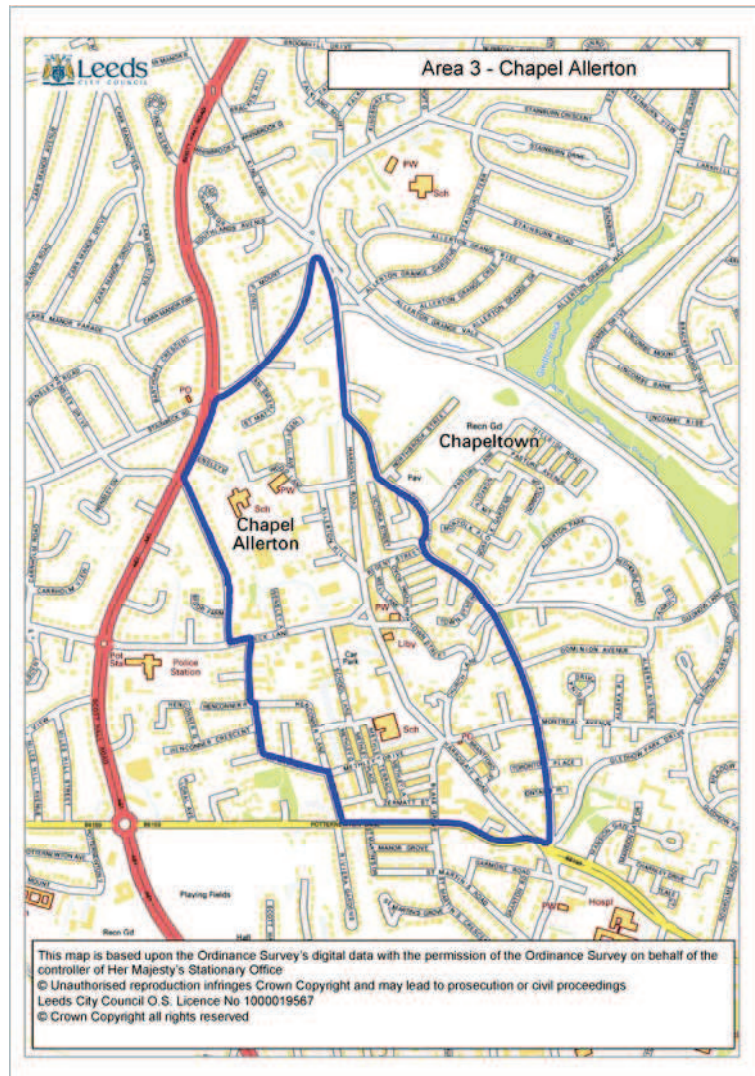
7.38 Such conditions might include (but are not limited to):

- Restriction of hours
- Restriction of capacity

7.39 Or the Authority may refuse to grant the licence or variation sought due to the impact on the licensing objectives.

Area 4 – Chapel Allerton

7.40 Area 4 relates to the Chapel Allerton district of Leeds as defined within the blue boundary.



7.41 The Chapel Allerton CIP has performed well since its inclusion in the Statement of Licensing Policy. However, residents of Chapel Allerton have noticed an increase in the amount of takeaway litter. There is also a concern relating to premises applying to vary their licence to increase the licensed area of their premises. In some cases this includes altering conditions to allow the use of the outside area to facilitate smokers following the smoking ban. This has a knock on effect on nuisance issues.

7.42 Since the CIP was introduced in 2005 and extended in 2011 the council has noted there have been very few applications to grant or vary premises licences in this area. This suggests that the CIP is having the desired effect in this area. Therefore the CIP remains unchanged.

7.43 It is the council's policy, on receipt of relevant representations, to refuse new and variation application in Area 4 for the following premises:

- Alcohol led premises such as bars, pubs and clubs
- Café bars and restaurants
- Premises seeking late night refreshment such as takeaways and late opening restaurants

7.44 It is for the applicant to demonstrate that their application would not add to the cumulative impact of such licensed premises in the area.

Area 5 - Horsforth

7.45 Area 5 relates to the Horsforth district of Leeds centred on Town Street. It includes all areas inside the blue boundary, but also the premises on the south side of New Road Side.



7.46 Since the adoption of the Horsforth CIP the council has recognised that the accumulation of licensed premises along New Road Side has contributed to public nuisance in that area, especially as it encourages the use of a route through residential areas used by people moving from Town Street to New Road Side. As a consequence this area was been included in the cumulative impact area for Horsforth in 2011.

7.47 Concern has been expressed by residents about the litter nuisance and public nuisance caused by takeaway premises. The council has received a number of complaints relating to litter and odour nuisance that can be related to takeaway premises.

7.48 Since the CIP was introduced in 2007 and extended in 2011 the council has noted there have been very few applications to grant or vary premises licences in this area. This suggests that the CIP is having the desired effect in this area. Therefore the CIP remains unchanged.

7.49 It is the council's policy, on receipt of relevant representations, to refuse new and variation applications in Area 5 for the following premises:

- Alcohol led premises such as bars, pubs and clubs
- Café bars and restaurants
- Premises seeking late night refreshment such as takeaways and late opening restaurants

7.50 It is for the applicant to demonstrate that their application would not add to the cumulative impact of such licensed premises in the area.

Rebutting the presumption against grant in a CIP area

7.51 When considering whether the presumption against grant in a CIP area the council will need to be satisfied that the grant will not impact on the cumulative impact of existing licensed premises in the area. Applicants will often suggest measure which they assert will demonstrate there will be no impact.

7.52 Examples of factors the licensing authority may consider as demonstrating there will be no impact may include, though are not limited to:

- Small premises who intend to operate before midnight.
- Premises which are not alcohol led and only operate during the day time economy
- Instances where the applicant is relocating their business to a new premises but retaining the same style of business.
- Conditions which ensure that the premises will operate in a particular manner such as a minimum number of covers or waiter/waitress service to secure a food led operation.

7.53 Examples of factors the licensing authority will not consider as meeting the standard of rebuttal include:

- That the premises will be well managed and run as all licensed premises should meet this standard
- That the premises will be constructed to a high standard
- That the applicant operates similar premises elsewhere, such as in another licensing authority area, without complaint

7.54 Any relevant representation of support will be taken into consideration by the council when making its determination.

Representations on cumulative impact outside cumulative impact areas

7.55 In cases where either responsible authorities or other persons seek to establish that an application should be refused on the grounds that it would result in or further contribute to a cumulative impact in an area not designated as a saturation zone, which would undermine one or more of the licensing objectives, they shall:

- Identify the boundaries of the area from which it is alleged problems are arising
- Identify the licensing objective which it is alleged will be undermined
- Identify the type of licensable activity alleged to be causing the problem (e.g. sale of alcohol, late night refreshment)
- Provide full details and evidence to show the manner and extent to which it is alleged that the licensing objectives are being, or at risk of being, undermined in the area
- Provide evidence to show that the undermining of the objective is caused by the patrons of licensed premises in the area.

7.56 The reason for this is to ensure that objections are neither frivolous nor vexatious and that there is an evidential basis for the licensing subcommittee to reach a decision.

Section 8 Early Morning Restriction Orders

- 8.1 The power conferred on licensing authorities to make, vary or revoke an EMRO is set out in section 172A to 172E of the Licensing Act 2003. This power was brought into force on 31st October 2012 and the government has provided guidance as part of the S182 Guidance to Licensing Authorities.
- 8.2 An EMRO enables a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.
- 8.3 EMROs are designed to address recurring problems such as high levels of alcohol related crime and disorder in specific areas at specific times; serious public nuisance and other instances of alcohol related anti-social behaviour which is not directly attributable to specific premises.
- 8.4 It is the council's intention to support businesses rather than hinder them whilst ensuring promotion of the licensing objectives. However where this has deemed to fail then an EMRO could be considered as a possible solution.
- 8.5 An EMRO:
- Applies to the supply of alcohol authorised by premises licences, club premises certificate and temporary event notices;
 - Applies for any period beginning at or after 12am and ending at or before 6am. It does not have to apply on every day of the week and can apply for different time periods on different days of the week;
 - Applies for a limited or unlimited period (for example, an EMRO could be introduced for a few weeks to apply to a specific event);
 - Applies to the whole or any part of the licensing authority's area
 - Will not apply to any premises on New Year's Eve (defined as 12am to 6am on 1 January every year);
 - Will not apply to the supply of alcohol to residents by accommodation providers between 12am and 6am, provided the alcohol is sold through mini-bars/room service; and
 - Will not apply to a relaxation of licensing hours by virtue of an order made under section 172 of the Licensing Act 2003.

EMRO Request

- 8.6 It is expected that the need for an EMRO may be identified by a number of different organisations. For example the request for an EMRO may originate at an Area Committee, Health and Environmental Action Service, residents association or the local NPT. It may come via the Licensing Enforcement Group which is a group of partner agencies who meet regularly to discuss issues relating to the sale of alcohol and the provision of entertainment. It is likely that more than one organisation may be involved in the process.
- 8.7 It is anticipated that the request would be referred to Entertainment Licensing where a designated procedure will be applied to determine if an EMRO is appropriate. If appropriate, the request would be referred to the Licensing Committee. Members would be supplied with evidence of the issues being experienced in the area in support of the EMRO. Licensing Committee will decide if, on the strength of the evidence provided, that an EMRO is appropriate for the promotion of the licensing objectives and if further work is to be undertaken to support the case. Members may decide that other measures would be more effective in dealing with the problems, or that licence holders should engage with the authorities in an attempt to rectify matters before the request is considered further.

Evidence

8.8 The Section 182 Guidance to Licensing Authorities states that

“The licensing authority should be satisfied that it has sufficient evidence to demonstrate that its decision is appropriate for the promotion of the licensing objectives. This requirement should be considered in the same manner as other licensing decisions, such as the determination of applications for the grant of premise licences. The licensing authority should consider the evidence from partners, including responsible authorities and local Community Safety Partnerships, alongside its own evidence, to determine when an EMRO would be appropriate for the promotion of the licensing objectives.”

8.9 The level of evidence Licensing Committee will consider to support an early morning restriction order is:

- Police evidence of reported alcohol related crime
- Nuisance statistics compiled from complaints made to Environmental Health in relation to noise, odour and litter nuisance
- Data gathered from complaints made the Entertainment Licensing on matters which affect the licensing objectives.
- Anecdotal evidence from residents organisations, ward members and other representatives of people living in a specific area
- Evidence obtained during the public consultation and associated public meetings

8.10 In addition the S182 guidance suggests other sources of evidence such as

- Health related statistics such as alcohol-related emergency attendances and hospital admissions

8.11 This should, in part be provided by the organisation or group who are proposing an EMRO should be in force.

8.12 Once the Licensing Committee is satisfied that an EMRO is required to address the issues in an area, and all other measures have been tried and failed to address these issues, the formal process of implementing an EMRO will begin. The design of the EMRO will include:

- The days (and periods on those days) on which the EMRO would apply
- The area to which the EMRO would apply
- The period for which the EMRO would apply
- The date from which the proposed EMRO would apply

Consultation

8.13 The proposed EMRO will be advertised for at least 42 days. The proposal will be published on the council’s website and in a local newspaper. A notice will be sent to all affected people in the area who hold a premises licence or club premises certificate, or people who use TENs or who hold a provisional statement. A notice will be displayed in the area, and sent to responsible authorities and adjacent licensing authorities.

8.14 Anyone affected by the EMRO has 42 days in which to make a representation on any aspect of the EMRO design. If relevant representations are received then a hearing will be held to consider them. If there are a number of representations, the licensing authority may consider whether to hold the hearing over several days. The hearing will be commenced within 30 working days of the end of the notice period.

8.15 As a result of the hearing the licensing authority has three options:

- To decide that the proposed EMRO is appropriate for promotion of the licensing objectives
- To decide that the proposed EMRO is not appropriate and therefore the process should be ended
- To decide that the proposed EMRO should be modified. In this case it may be necessary to advertise again.

Formal Decision

8.16 Once the licensing authority is satisfied that the proposed order is appropriate for the promotion of the licensing objectives, its determination will be put to full Council for its final decision. Once the EMRO is made, the authority will send a notice to all affected persons and make it available for 28 days on the website.

8.17 A variation or a revocation of an order will follow the same process. However an order could be applied for a specified time and in this case the order ceases to apply on the final day.

8.18 Once an EMRO is in place, the licensing authority will update this policy as soon as possible to include reference to the EMRO in this section.

8.19 There are currently no EMROs in place in this area.

- 9.1 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a Personal Licence. The Act does not require the presence of a Personal Licence holder at all material times but if any sales are made when a Personal Licence Holder is not present, then they must have been authorised by somebody who holds a Personal Licence. Regardless of whether a Personal Licence holder is present or not he will not be able to escape responsibility for the actions of those he authorises to make such sales.
- 9.2 The council recommends that authorisations for the sale of alcohol be made in writing to ensure that those authorised are clear what their legal responsibilities are. Any premises at which alcohol is sold or supplied may employ one or more Personal Licence holders. This paragraph should be read in conjunction with paragraphs 10.7 to 10.9 on the role of the 'Designated Premises Supervisor'.
- 9.3 The council recognises it has no discretion regarding the granting of personal licences where
- the applicant is 18 or over,
 - possesses a licensing qualification,
 - has not had a licence forfeited in the last five years and
 - has not been convicted of a relevant offence.
- 9.4 An application for a personal licence to sell alcohol must be made in the form specified in government guidance or regulations. The application form must be accompanied by the requisite fee. The applicant should also be able to produce evidence of the relevant qualifications.
- 9.5 Applicants should produce a Criminal Record Bureau certificate along with the application form. The certificate must be current and comply with the regulations on personal licence applications. Applicants are also expected to make a clear statement as to whether or not they have been convicted outside England and Wales of a relevant offence or a similar offence.
- 9.6 Where the application discloses relevant unspent convictions the council will notify the police of that application and the convictions. The police may make objection on the grounds of crime and disorder. If an objection is lodged a hearing must be held.
- 9.7 The council will, at such a hearing, consider carefully whether the grant of the licence will compromise the promotion of the crime prevention objective. It will consider the seriousness and relevance of the conviction(s), the period that has elapsed since the offence(s) were committed and any mitigating circumstances. The council will normally refuse the application unless there are exceptional and compelling circumstances which justify granting it.

- 10.1 The system of permitted temporary activities is intended as a light touch process, and as such, the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead a person wishing to hold an event at which such activities are proposed to be carried on (the “premises user”) gives notice to the licensing authority of the event (a “temporary event notice” or TEN).
- 10.2 Temporary event notices are subject to various limitations. These are concerned with:
- the number of times a premises user may give a TEN – 50 times in a calendar year for a personal licence holder and five times in a calendar year for other people);
 - the number of times a TERN may be given for any particular premises (12 times in a calendar year);
 - the maximum duration of an event authorised by a TEN is 168 hours (seven days);
 - the maximum total duration of the events authorised by TENs in relation to individual premises (21 days in a calendar year);
 - the maximum number of people attending at any one time (fewer than 500); and
 - the minimum period between events authorised under separate TENs in relation to the same premises (not including withdrawn TENs) by the same premises user (24 hours).
- 10.3 The most important aspect of the system of temporary event notices is that no permission is required for these events from the council. In general, only the police or Environmental Health and Action Service (HEAS) may intervene to prevent such an event or modify the arrangements for such an event. The council will only intervene itself if the limits on the number of notices that may be given in various circumstances would be exceeded.
- 10.4 Many premises users giving temporary event notices will not have a commercial background or ready access to legal advice. They will include, for example, people acting on behalf of charities, community and voluntary groups, all of which may stage public events to raise funds, at which licensable activities will take place. The council will ensure that local guidance about the temporary permitted activities is clear and understandable and will strive to keep the arrangements manageable and user-friendly for such groups.
- 10.5 There are two types of TEN; a standard TEN and a late TEN. These have different notice periods. A standard TEN is given no later than ten working days before the event to which it relates; a late TEN is given not before nine and not later than five working days before the event.
- 10.6 The council encourages notice providers to give the earliest possible notice of events likely to take place. This is particularly relevant to events which are to take place in the open air or in a temporary structure. Assistance with the planning of events can be provided through multi agency forum meetings.
- 10.7 The council will provide local advice about proper respect for the concerns of local residents; of other legislative requirements regarding health and safety, noise pollution, the building of temporary structures, or other necessary permissions, and of the powers to close down events with no notice on grounds of disorder, the likelihood of disorder or noise emanating from the premises.

Police or HEAS intervention

- 10.8 The Act provides that in exceptional circumstances, the police or HEAS may issue an objection notice because they believe the event would undermine the one or more of the four licensing objectives set out in the Act. The police or HEAS must issue an objection notice within three working days of being notified, but they can subsequently withdraw the notice. The issuing of such an objection notice requires the consideration of the objection by the council at a hearing in the case of a standard TEN. If an objection notice is issued in relation to a late TEN then the TEN is cancelled and licensable activities are not authorised.
- 10.9 The ability of police and HEAS to serve such a notice is a further reason why event organisers are strongly encouraged by the council not to rely on giving the minimum amount of notice and to contact the local police and HEAS at the earliest possible opportunity about their proposals.

Additional limitations

- 10.10 The council, on receiving temporary event notices, will also check that the requirements of the Act as to duration and numbers of notices are met. For these purposes, a notice is treated as being from the same premises user if an associate gives it.
- 10.11 The Act defines an associate as being:
- the spouse or civil partner of that person;
 - a child, parent, grandchild, grandparent, brother or sister of that person; or
 - an agent or employee of that person;
 - the spouse or civil partner of a person listed in either of the two preceding bullet points.
- 10.12 A person living with another person as his or her husband or wife is treated for these purposes as his or her spouse.

Section 11 Enforcement and reviews

- 11.1 The Licensing Act contains measures to ensure that the council, and responsible authorities, are able to deal with premises that wilfully and persistently undermine the licensing objectives. The council and responsible authorities are committed to encouraging a thriving day time and evening licensed economy but will not tolerate those premises whose activities infringe upon the quality of life for local residents and businesses.
- 11.2 The council has established a multi agency enforcement protocol which sets out the framework for the risk based enforcement of the Licensing Act 2003 following the principles of better regulation advocated by the Better Regulation Executive. The protocol allows for carrying out of joint inspections with the police, the fire authority and other relevant agencies.
- 11.3 The enforcement protocol's mission statement is to protect the public, interested parties and the environment from harm caused as a result of activities made licensable by virtue of the Licensing Act 2003.

Prosecution of breaches

- 11.4 In accordance with the enforcement protocol, the council adopts a multi-agency approach to the prosecution of offences under the Licensing Act.
- 11.5 Consideration will be given to the appropriate powers that should be used to address a problem where other agencies such as the police, fire authority, environmental protection and trading standards also have their own powers.
- 11.6 The council has adopted the principles of the Hampton Report in its enforcement concordat. Formal enforcement will be a last resort and proportionate to the degree of risk. To this end the key principles of consistency, transparency and proportionality will be maintained.
- 11.7 The council has a zero tolerance to anti social behaviour and environmental crime.

Reviews of Licences

- 11.8 The council recognises that the ability of the police, other responsible authorities and other persons to apply for a review of a premises licence, is an incentive to effective self regulation.
- 11.9 On receipt of a relevant request to carry out a review the council has a range of options available to it under the Act. These include:
- To modify the conditions of the licence including imposing new conditions, altering existing conditions or removing conditions (permanently or temporarily)
 - To exclude a licensable activity from the scope of the licence (permanently or temporarily)
 - To remove the Designated Premises Supervisor
 - To suspend the licence for a period not exceeding three months
 - To revoke the licence
- 11.10 The council will seek to establish the cause or causes of the concern and remedial action will be targeted at such causes. Any action will be proportionate to the problems involved.
- 11.11 The council has agreed protocols with responsible authorities and published guidance on the review process which is available from Entertainment Licensing or on the council's website.

- 11.12 Where a Magistrates Court makes a Closure Order under part 8 of the Licensing Act 2003 (on grounds of disorder) the council must carry out a review of the licence.
- 11.13 Where a Magistrates Court makes a Closure Order under part 1 of the Anti Social Behaviour Act 2003 (on grounds of the use, supply or production of Class A drugs associated with disorder or serious nuisance) the police will usually ask the council to carry out a review of the licence
- 11.14 Where a closure order has been made under part 6 of the Anti Social Behaviour Act 2003 (on grounds of noise) the council's Environmental Health section will normally request a review of the licence.

Matters to be considered

- 11.15 When considering a review request or the possibility of enforcement action the council will take into account all relevant circumstances but will view the following matters particularly seriously:
- use of the premises for criminal activities such as the supply of drugs or money laundering
 - failure to promptly respond to a warning properly given by a responsible authority
 - failure to engage with the RAs in an effective manner?
 - previous convictions for licensing offences
 - previous failure to comply with licence conditions.

The Violent Crime Reduction Act 2006

- 11.16 The Violent Crime Reduction Act 2006 has amended parts of the Licensing Act 2003 and now expands police and council powers to deal with problem premises in a more expedient manner.
- 11.17 A new power to carry out summary reviews in serious cases of crime and disorder is brought in at section 53A of the Licensing Act 2003. Where a review application is accompanied by a certificate issued by a senior police officer, the Licensing Authority is required within 48 hours to consider whether it is necessary to take any interim steps pending the completion of the review process. This may include the immediate suspension of the premises licence.

Appendix 1 – Further Reading and Useful Information

- The Licensing Act 2003
- Guidance issued under section 182 of the Licensing Act 2003 available on the DCMS Website at www.culture.gov.uk
- The Event Safety Guide – A guide to health safety and welfare at music and similar events (HSE 1999) (“The Purple Guide”) ISBN 0 7176 2453 6 (due to be updated in 2013)
- Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X
- Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 07176 15804
- The Guide to Safety at Sports Grounds (The Stationery Office, 1997)(“The Green Guide ”) ISBN 0 11 300095 2
- Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network, copies of which may be obtained through www.streetartsnetwork.org
- The Portman group website at www.portman-group.org.uk
- The British Beer and Pub Association at www.beerandpub.com
- The Alcohol Strategy, Home Office
- Government website aimed at tackling anti-social behaviour www.together.gov.uk
- Safer clubbing guide available at www.drugs.gov.uk

**Produced by
Entertainment Licensing
Leeds City Council
Civic Hall
Leeds
LS1 1UR
Tel: 0113 247 4095
Fax: 0113 224 3885
Email: entertainment.licensing@leeds.gov.uk
Web: www.leeds.gov.uk/licensing**



Home Office

Direct Communications Unit
2 Marsham Street
London
SW1P 4DF

Tel: 020 7035 4848
Fax: 020 7035 4745
www.homeoffice.gov.uk

✓ PJG
22/8.
Cllr Peter Gruen
Leeds City Council
Civic Hall
Leeds
LS1 1UR

Reference: T9158/13

15 AUG 2013

Your Reference: PJG/PCG

Dear Councillor Gruen,

Thank you for your letter of 9 July 2013 to the Home Secretary about Part 5 of the Licensing Act 2003 relating to Temporary Event Notices (TENs). I am replying as the appropriate policy official. In your letter you set out local concerns over the processes in place for objecting to TENs and the notification period set out in the legislation.

The Government is committed to reducing regulation and bureaucracy to free up businesses, whilst still ensuring an effective licensing system. As part of this commitment, the Government, through the Police Reform and Social Responsibility Act 2011, amended the system of TENs to tighten up existing loopholes and to prevent it being exploited by unscrupulous operators, whilst ensuring the process is not overly bureaucratic for small voluntary and community groups.

In your letter you request that consideration is provided for a change in the legislation to provide for elected members to comment and/or object to TENs. As noted in your letter, both the police and environmental health authority can object to a temporary event going ahead. This can now be on the grounds of any of the four licensing objectives of crime and disorder; public safety; public nuisance; and protection of children from harm. Issues such as noise nuisance and litter can be taken into account as grounds for preventing a temporary event going ahead.

As you rightly say, TENs are meant to be a light touch process for temporary events held outside the normal licensing process and as environmental health are now able to object on the grounds of nuisance and public safety, the Government does not consider it appropriate to allow residents a direct role in the overall decision making process for TENs, or indeed, elected members on their behalf. The Government believes that to allow them to do so would put further burdens on the licensing authority and increase bureaucracy. Further to this, elected members do of course already have a role in shaping

their authority's licensing policy and, as members of the licensing sub-committee, have a role if a hearing is required in the event of objections from the police or environmental health officers. In addition, it is of course open to local residents or those acting on their behalf to raise ongoing concerns about particular premises or the use of TENs by particular individuals directly with the police or environmental health officers.

Your letter also requests that both the three working day objection period and the ten working day notification period for a TEN are increased. It is important to strike the right balance between ensuring appropriate licensing safeguards are in place, whilst minimising burdens and restrictions placed on businesses and community groups and maximising flexibility where possible. The Police Reform and Social Responsibility Act extended the time that the police and environmental health authorities have to consider TENs from two working days to the current level of three. With regards to the notification period, although ten clear working days is the minimum possible notice period for a standard TEN, the section 182 guidance states that licensing authorities should publicise their preferences regarding advance notice and encourage premises users to provide the earliest possible notice of planned events. The Government believes that these measures, alongside the aforementioned additional safeguards are appropriate.

I hope that this helps to clarify the Government's position.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Robert Turner', with a stylized flourish at the end.

Robert Turner
Drugs and Alcohol Unit

Email: Public.Enquiries@homeoffice.gsi.gov.uk

Report of Head of Licensing and Registration

Report to Licensing Committee

Date: 17th December 2013

Subject: Strong Alcohol Schemes

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): City and Hunslet		
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. Ipswich is reporting success with a voluntary scheme that asks off licences and supermarkets to remove the low cost, high strength alcohol from sale in order to affect antisocial behaviour in their area.
2. This success and the introduction of the scheme in a number of other areas, including Wakefield, suggest that Leeds should also consider this scheme as a solution to antisocial behaviour being experienced by residents and users of the city centre.

Recommendations

3. That Licensing Committee consider the contents of this report and instruct officers to commence discussions with partners on designing a similar scheme for Leeds with a further report to be brought the Licensing Committee on the findings.

1 Purpose of this report

- 1.1 To inform Licensing Committee on the progress being made in other areas with a voluntary scheme which works with businesses to remove the high strength, low cost alcohol from sale in areas which are experiencing incidents of alcohol related antisocial behaviour..

2 Background information

- 2.1 'Super strength' alcohol includes lager, beer and cider with an alcohol volume of 6.5% or over that is sold very cheaply. It is often bought by young people, or those with alcohol-dependency problems. Excessive consumption of these drinks can lead to health problems for the individual, can make them vulnerable to various types of crime and can lead to anti-social behaviour and community issues.

Reducing the Strength - Ipswich

- 2.2 Partners in Suffolk have launched a campaign to stop the sale of super strength alcohol from off-licences in Ipswich. Off-licence owners have been asked to become Ipswich 'superheroes' by becoming 'super strength free' and removing these products from their stores. Suffolk Constabulary, NHS Suffolk, Ipswich Borough Council, Suffolk County Council, the East of England Co-operative Society, Tesco and Martin McColl work together in an effort to end the sale of this kind of alcohol, which has serious effects on consumers and communities.
- 2.3 The campaign is targeting the sale of these items only in off-licence premises. Licensees in Ipswich have been asked to join the campaign by voluntarily removing the sale of these products from their stores. Twenty-three independent stores in Ipswich are already 'super strength free'. In total there are 130 off-licences in Ipswich, 53 of which were super-strength free following the launch.
- 2.4 A year after its launch, the campaign has helped cut crime. The Reducing the Strength campaign signed-up two thirds of the town's shops to the project. The Police advised the number of identified street drinkers dropped from 78 to 38 in a year. The force's statistics for the first six months of the scheme showed the number of anti-social "incidents of concern" dropped from 191 to 94 compared to the same period the previous year.

Reducing the Strength – Wakefield

- 2.5 Wakefield are launching a [Reducing the Strength Scheme](#) in two areas in the borough. The pilot initiative will be introduced in two wards, Normanton and Airedale & Ferry Fryston, as these wards have some of the highest levels of harmful and hazardous drinking, and anti-social behaviour outside of the city centre. The wards are ideally positioned to pilot such an initiative as they are sufficiently isolated to prevent people going to neighbouring areas to purchase cheap, super strength alcohol. In total 23 retailers will be involved. It is hoped that the scheme will reduce alcohol consumption and drunkenness in the ward areas, especially amongst young people. This in turn will lead to improved community safety.

Other Areas

2.6 Other areas to have introduced the scheme are:

- High Wycombe – [Super Strength Alcohol Initiative](#)
- Westminster – Westminster have sought to ban the sale of high strength alcohol since 2008
- Nottingham – Super strength free

2.7 The Grocer reports that over 20 authorities are seeking to introduce a similar scheme. Our research shows that the areas that are considering the scheme include:

- Brighton and Hove
- Cambridge
- Coventry
- Derby
- Lincoln
- Northampton
- Plymouth
- Portsmouth
- Sudbury

2.8 A voluntary scheme isn't the only way to address the issues of very cheap alcohol. Examples of other actions taken by licensing authorities include:

- Newcastle – introduced a voluntary scheme on alcohol promotions suggesting a minimum price be observed
- Ealing – Imposed condition on Sainsbury Local when applying for extended hours to stop the sale of high strength alcohol
- Watford – Convenience store licence suspended for one month, and condition imposed banning the sale of high strength alcohol

3 Main issues

3.1 Leeds city centre attracts people with alcohol dependency problems for a number of reasons. It is where the treatment services are and where cheap alcohol is readily available. The bus station offers shelter, warmth and public toilets. There are a number of attractive open spaces.

3.2 Not everyone who is alcohol dependent displays anti-social behaviour, and in the past those that have displayed antisocial behaviour have been dealt with by way of anti-social behaviour orders (ASBOs). However the abolition of ASBOs in 2012 and replacement of the scheme with a streamlined toolkit has led to antisocial behaviour being experienced again.

3.3 West Yorkshire Police have requested that Licensing Committee look at the schemes, such as Reducing the Strength, as a way of controlling the sale of the type of alcohol that is marketed mostly to people with alcohol dependency issues (also known as street drinkers).

3.4 The area of the city that causes the most concern is the area around New York Street and the bus station. The proximity to the bus station and treatment centres means this area specifically attracts a number of street drinkers. A day care provision is located in this area causes alcohol based anti-social behaviour in the daytime to be of specific concern.

- 3.5 In addition there is very recent history of antisocial behaviour caused by street drinkers directly outside the Mecca Bingo Hall. This includes fighting amongst themselves, arguing and the harassment of Mecca customers. There is inter-agency work currently ongoing to resolve this.
- 3.6 In the area around the West Yorkshire Playhouse, theatre goers and car park users at the rear are experiencing antisocial behaviour being displayed by street drinkers using a nearby off-licence. The licensee of the off licence has been issued a formal warning by West Yorkshire Police.
- 3.7 The licensee of the Scarborough Taps, Mill Hill periodically complains about street drinkers coming into the premises harassing customers for money for drink and also drinking their unfinished drinks. The licensee also acts as a spokesperson for the unlicensed businesses nearby, e.g. a card shop, where street drinkers would try to beg inside the shop and also vomit and urinate over their display racks. This has coincided with West Yorkshire Police action against the off-licence on Bishopgate St selling to persons in drink. This has led to an increase in problems in other business premises nearby.
- 3.8 A number of years ago West Yorkshire Police had many complaints regarding street drinkers aggressively begging outside Morrisons, Merrion Centre. This started early in the morning when up to a dozen street drinkers would congregate outside the shop waiting for them to open, often pre-10am catching the morning commuters but fighting amongst themselves and frightening shoppers. West Yorkshire Police worked with Morrison regarding selling to people in drink and street drinkers. This led to two positive results which were that Morrisons agreed to remove certain products from their sales range that were attractive to street drinkers (Westminster sherry/Frosty Jack cider) and stopped selling cans singly. After this initiative the neighbouring policing Inspector reported that street drinkers from the city centre were travelling to the Morrisons in his area to gain their supplies.

Local Alcohol Action Areas

- 3.9 The Home Office are seeking 15-20 areas with higher levels of alcohol harm to work with over a 15 month period. The Home Office and Public Health England will provide advice and support to areas in formulating their action plans and reviewing progress. They will share their expertise in licensing law and practice and public health improvement. They will also use their influence and that of other partner organisations to remove barriers to data sharing between agencies and assist in overcoming local resistance to change.
- 3.10 They will make connections with mentor areas that have effectively and innovatively tackled the same issues that local action areas face, and bring together local areas to share learning and solve joint problems. They are challenging the alcohol industry to support LAAs, prioritising the roll-out of best practice schemes and galvanizing the support of businesses.
- 3.11 The Home Office Press Office will work with Council communications staff to help harness the support of local media to take up the cause to reduce alcohol related disorder on high streets. In addition Home Office Strategic communications will seek to work with five willing areas more intensively on communications to facilitate new or build on existing partnerships with local businesses to reduce problem drinking and the associated harms.

3.12 There is emerging support for Leeds to follow Ipswich by introducing a voluntary scheme around removing high strength, low cost alcohol from off licences in the city. There are issues around antisocial behaviour connected with street drinking and this scheme has proved effective in Ipswich to reduce such antisocial behaviour.

3.13 With permission from the Chair, officers have completed the Expression of Interest form on behalf of Licensing Committee.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 This report is a preliminary report seeking guidance on whether further work should be carried out into the implementation of a voluntary scheme. Part of that work would be to consult with residents, alcohol workers, partner agencies, ward members etc.

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 implementation of a voluntary scheme will be resource intensive until it is established. As it is voluntary, ongoing enforcement would not be required, however an annual review to ensure the scheme is still meeting its objectives would be recommended. The cost of the implementation would be borne by the Council, however a reduction in antisocial behaviour would reduce the number of complaints the council currently deals with in relation to this issue.

4.5 Legal Implications, Access to Information and Call In

4.5.1 This report is requesting guidance on a voluntary scheme; as such there are no legal implications.

4.6 Risk Management

- 4.6.1 As this is a preliminary report and no substantive decision is sought, there is very little risk associated with the proposal.

5 Conclusions

- 5.1 With antisocial behavior displayed by street drinkers being experienced in all parts of the city, officers are recommending that further research is carried out on whether a Reducing the Strength type scheme would be appropriate and effective in a large city such as Leeds. These types of schemes have proved effective in other areas.

6 Recommendations

- 6.1 That Licensing Committee consider the contents of this report and instruct officers to commence discussions with partners on designing a similar scheme for Leeds with a further report to be brought the Licensing Committee on the findings.

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 05/12/13 (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
Immediate Suspensions Policy (TPHL)	To receive a further report considering a review of the Immediate Suspensions Policy in respect of plying for hire – following consideration by the HC/PH Working Group	D Broster	RP
Transfer of HC Driver Licences	To consider a review of the Policy in respect of the Transfer of a Hackney Carriage Proprietors Licence on the Death of a Proprietor, following consideration by the HC/PH Working Group	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. HELD Immediate Suspensions Policy, Sex Shop licence fee review, Petition from Alpha Welfare, Leeds Festival full de-brief			
Meeting date: 17 DECEMBER 2013			
Disclosure and Barring	To receive an update	D Broster	B

LICENSING COMMITTEE WORK PROGRAMME 2013/14- LAST UPDATED 05/12/13 (hg)

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
Service			
PH Operator Conditions (TPHL)	To receive a report considering a review of the Private Hire Operator Conditions	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
Strong Alcohol Schemes	To receive a report on voluntary schemes which ask retailers to remove low cost, high strength alcohol from sale	S Holden	B
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
TPH Convictions Criteria (TPHL)	To receive a report considering a review of the Taxi and Private Hire Convictions Criteria	D Broster	RP
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			
Sex Establishment Fees	To consider the Annual review of Sex Establishment fees	N Raper	PM
Meeting date: 8 APRIL 2014			

LICENSING COMMITTEE WORK PROGRAMME 2013/14- LAST UPDATED 05/12/13 (hg)

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
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

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