



## LICENSING COMMITTEE

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MEETING TO BE HELD IN CIVIC HALL, LEEDS, LS1 1UR ON  
FRIDAY, 22ND MAY, 2015 AT 10.00 AM

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### MEMBERSHIP

#### Councillors

K Bruce	Rothwell
N Buckley	Alwoodley;
R Downes	Otley and Yeadon;
J Dunn	Ardsley and Robin Hood;
B Gettings	Morley North;
J Pryor	Headingley;
M Harland	Kippax and Methley;
G Hussain	Roundhay;
G Hyde	Killingbeck and Seacroft;
A Khan	Burmantofts and Richmond Hill;
B Selby	Killingbeck and Seacroft;
C Townsley	Horsforth;
G Wilkinson	Wetherby;
B Flynn	Adel and Wharfedale;
M Ingham	Burmantofts and Richmond Hill;

Membership to be confirmed at the Annual Council meeting to be held on Thursday 21<sup>st</sup> May 2015

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

**John Grieve**  
**224 3836**

# A G E N D A

Item No	Ward/Equal Opportunities	Item Not Open		Page No
1			<p><b>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</b></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><b>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</b></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><b>RESOLVED</b> – 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><b>LATE ITEMS</b></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><b>DECLARATION OF DISCLOSABLE PECUNIARY INTERESTS</b></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><b>APOLOGIES FOR ABSENCE</b></p>	
6			<p><b>MINUTES OF THE PREVIOUS MEETING</b></p> <p>To approve the minutes of the last meeting held on 8<sup>th</sup> April 2015</p> <p>(Copy attached)</p>	1 - 4
7			<p><b>MATTERS ARISING FROM THE MINUTES</b></p> <p>To consider any matters arising from the minutes</p>	
8			<p><b>LICENSING COMMITTEE - ANNUAL GOVERNANCE ARRANGEMENTS</b></p> <p>To consider the report of the City Solicitor seeking to establish the governance arrangements for the Licensing Committee for the 2015/16 Municipal Year; specifically dealing with the Terms of Reference for the Committee and its Sub-Committees, the Membership of the Sub-Committees and the officer delegation scheme</p> <p>(Report attached)</p>	5 - 24

Item No	Ward/Equal Opportunities	Item Not Open		Page No
9			<p><b>LICENSING PROCEDURE RULES, THE CODE OF PRACTICE FOR DETERMINING LICENSING MATTERS AND PRESCRIBED LICENSING TRAINING</b></p> <p>To consider a report of the City Solicitor which sets out draft procedure rules relating to hearings and other meetings of the Licensing Committee and sub-committees and to seek Members approval to the adoption of these procedure rules. The report also requests consideration the Code of Practice for the Determination of Licensing Matters previously approved by Standards Committee and to seek Members to approve and resolve to follow the Code.</p> <p>(Report attached)</p>	25 - 44
10			<p><b>DIGITAL ADVERTISING SCREENS IN LICENSED VEHICLES – PRESENTATION OF FURTHER INFORMATION AND REVIEW OF LICENSING COMMITTEE RECOMMENDATIONS OF 9 SEPTEMBER 2014</b></p> <p>With reference to the meeting of 10<sup>th</sup> March 2015 and the decision to defer consideration of this item to allow all parties to receive and consider any new information and determine if any areas of dispute remain. The Head of Licensing and Registration submitted a further report which attempted to address objections to a previous recommendation which imposed a requirement to produce letters of approval from vehicle manufacturers approving digital advertising screens fitted within head restraints in their manufactured vehicles.</p> <p>(Report attached)</p>	45 - 104
11			<p><b>LICENSING COMMITTEE WORK PROGRAMME</b></p> <p>To note the contents of the Licensing Committee Work Programme 2015/16.</p> <p>(Copy attached)</p>	105 - 108

Item No	Ward/Equal Opportunities	Item Not Open		Page No
12			<p data-bbox="676 181 1233 215"><b>DATE AND TIME OF NEXT MEETING</b></p> <p data-bbox="676 331 1350 434">To note that the next meeting will take place on Tuesday 9<sup>th</sup> June 2015 at 10.00am in the Civic Hall, Leeds.</p> <p data-bbox="676 506 903 533"><b>Third Party Recording</b></p> <p data-bbox="676 555 1401 689">Recording of this meeting is allowed to enable those not present to see or hear the proceedings either as they take place (or later) and to enable the reporting of those proceedings. A copy of the recording protocol is available from the contacts named on the front of this agenda.</p> <p data-bbox="676 719 1241 745">Use of Recordings by Third Parties– code of practice</p> <p data-bbox="676 779 1401 1106"> a) Any published recording should be accompanied by a statement of when and where the recording was made, the context of the discussion that took place, and a clear identification of the main speakers and their role or title.  b) Those making recordings must not edit the recording in a way that could lead to misinterpretation or misrepresentation of the proceedings or comments made by attendees. In particular there should be no internal editing of published extracts; recordings may start at any point and end at any point but the material between those points must be complete </p>	

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## Licensing Committee

Wednesday, 8th April, 2015

**PRESENT:** Councillor M Harland in the Chair

Councillors N Buckley, R Downes, J Dunn,  
G Hussain, G Hyde, B Selby, C Townsley,  
G Wilkinson and B Flynn

### **113 Exempt Information - Possible Exclusion of the Press and Public**

That, in accordance with Regulation 4 of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the public be excluded from the meeting during Consideration of the following parts of the agenda designated as exempt on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present there would be disclosure to them of exempt information so designated as follows:-

Appendix A to Agenda Item 12, Notification of First Draft Event Management Plan for Leeds Festival 2015 was designated as exempt under Access to Information Procedure Rules 10.4 (3 and 7) because it contained information relating to crime and disorder which may result in future legal proceedings and any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

### **114 Declaration of Disclosable Pecuniary Interests**

There were no declarations of Disclosable Pecuniary Interests.

### **115 Apologies for Absence**

Apologies for absence were submitted on behalf of Councillors K Bruce and M Ingham.

### **116 Minutes of the Previous Meeting**

**RESOLVED** – That the minutes of the meeting held on 10 March 2015 be confirmed as a correct record.

### **117 Shisha Update**

The report of the Team Manager, Environmental Health provided an update following previous reports relating to shisha and the ongoing work.

Rachel McCormack, Team Manager, Environmental Health presented the report.

Issues highlighted from the report included the following:

Draft minutes to be approved at the meeting  
to be held on Friday, 22nd May, 2015

- There had been ten enforcement visits to shisha premises over the past year.
- Details of prosecutions carried out in the past year.
- Advisory visits had taken place to premises where the businesses had come under new ownership.
- The Niche Tobacco Project – Members were informed that this project was coming to a close and reference was made to the Niche Tobacco Toolkit and potential for links to the Healthy Schools Project website.

In response to Members comments and questions, the following was discussed:

- Prosecutions were usually initiated following visits with the police.
- Use of injunctions or anti-social behaviour powers – this would be investigated and reported back to the Licensing Committee.
- Victim surcharges – details of where this was spent would be reported back.
- Planning enforcement – cases were referred to Planning and other partners where enforcement action was necessary.
- Concern regarding the general operation of many premises and whether policy should be developed to control this.

**RESOLVED** – That the report be noted and a further report be brought to Licensing Committee in three months' time.

### **118 Gambling Act 2005 Statement of Licensing Policy**

The report of the Head of Licensing and Registration informed Members of the requirement to review the Gambling Act 2005 Statement of Licensing Policy (Licensing Policy) and to consult upon any changes every three years. The three yearly review was currently taking place and officers had reviewed the current policy and made suggestions in line with changes to the Gambling Commissions Licence Conditions and Codes of Practice.

It was aimed to commence consultation on the policy on 13 April 2015.

Susan Holden, Entertainment Licensing presented the report.

It was reported that one of the main areas of concern had been the rise in the number of Fixed Odds Betting Terminals in licensed gambling premises. In light of this, operators were now required to complete locality risk assessments.

In response to Members comments and questions, the following was discussed:

- Work was taking place in Manchester to develop a toolkit to highlight vulnerable areas by assessing the demographics of an area.
- Gambling operators had social responsibility codes in respect of vulnerable customers.
- The Council carried out inspections of premises as do the Gambling Commission.



- The role of Trading Standards and Police – prevention of money laundering – it was reported that there were protocols in place to highlight potential money laundering and these also applied to the use of Fixed Odds Betting Terminals. Very few complaints were received regarding gambling premises.
- Credit cards could not be used on fixed odds machines. There had to be some kind of human intervention with staff.
- Restriction on the number of Fixed Odds Betting Terminals.
- Children’s’ safeguarding – operators used the age verification scheme.
- Work with the financial inclusion team regarding debt advice and problem gambling.
- Planning regulations – there were due to be changes to planning legislation regarding the classification of premises to be used for gambling.

**RESOLVED** –That the changes suggested by Officers to the draft Gambling Act 2005 Statement of Licensing Policy be approved for public consultation.

### **119 Licensing Committee Work Programme**

Members considered the contents of the Licensing Committee Work Programme for 2015.

**RESOLVED** – That the Licensing Committee Work Programme be noted.

### **120 Date and Time of Next Meeting**

It was noted that the next meeting would be held on Friday, 22 May 2015 at 10.00 a.m.

### **121 Notification of First Draft Event Management Plan for Leeds Festival 2015**

The report of the Head of Licensing and Registration provided Members with a summary of changes to the 2015 Leeds Festival.

Stephen Holder, Principal Licensing Officer presented the report.

Members were informed that the main change to the operation of the festival would be the conditions regarding day tickets. These would now only allow day ticket holders to access certain areas and they would have to leave the site at 11.00 p.m.

In response to Members comments and questions, the following was discussed:

- Capacity for the festival was 90,000 but this had not been reached before. Facilities would be in place for full attendance.
- Work was ongoing with Thorner Parish Council regarding noise mitigation. There had not been any complaints about noise last year.
- It was not anticipated that there would be any problem with high numbers of people leaving the site at one time.
- Arranging a site visit prior to the 2015 event.

**RESOLVED –**

- (1) That the summary of changes to the 2015 Festival be noted.
- (2) That a further report be submitted to Licensing Committee in August 2015 to inform Members of final arrangements and agency comments.



Report author: Mary O'Shea 247 8991
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**Report of the City Solicitor**

**Report to Licensing Committee**

**Date: 22 May 2015**

**Subject: Licensing Committee – Annual Governance Arrangements**

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. Under the Licensing Act 2003 and the Gambling Act 2005 the Licensing Committee is authorised to discharge the licensing functions of the Licensing Authority. This report deals with the annual governance arrangements for Licensing Committee.
  
2. The Licensing Act 2003 specifically dis-applies Section 101 of the Local Government Act 1972 in respect of the Licensing Committee. The 2003 Act specifically provides that the Licensing Committee may establish one or more sub-committees, and that the Licensing Committee may arrange for the discharge of any functions exercised by it by a sub-committee established by it, or by an officer of the Licensing Authority. This report therefore deals with the appointment and terms of reference of Licensing sub-committees, and the delegation of functions to officers.

**Recommendations**

3. Members of the Licensing Committee are requested to note the terms of reference of the Licensing Committee as approved by full Council on 21<sup>st</sup> May 2015 as shown at Appendix 1.
  
4. Members of the Licensing Committee are asked to establish five licensing sub-committees.

5. Members of the Licensing Committee are asked to approve the membership of each sub-committee as set out in Appendix 2 of this report.
6. Members of the Licensing Committee are asked to approve the terms of reference for the licensing sub-committees as set out in Appendix 3 of this report.
7. Members of the Licensing Committee are asked to approve the delegation of licensing functions to the Assistant Chief Executive (Citizens and Communities) as shown in Appendix 4 to this report.

## **1. Purpose of this report**

- 1.1 This report is presented to Members to establish the governance arrangements for the Licensing Committee for the 2015/2016 municipal year, namely:
  - Noting the terms of reference of the Licensing Committee as agreed at the annual Council meeting on 21 May 2015.
  - To appoint licensing sub-committees for the 2015/2016 municipal year.
  - To approve terms of reference for the licensing sub-committees.
  - To approve the delegation of functions to Officers as appropriate.

## **2. Background information**

- 2.1 The Council is the Licensing Authority under the Licensing Act 2003 (“the 2003 Act”) and the Gambling Act 2005 (“the 2005 Act”).
- 2.2 In accordance with both the 2003 Act and 2005 Act, with the exception of specified functions (which largely relate to the Authority’s statement of licensing policy), all matters relating to the discharge by the Authority of its licensing functions are automatically referred to the Licensing Committee. This discretion does not extend to any licensing function referred to full Council or a licensing function where full Council has referred the matter to another committee.
- 2.3 The Licensing Committee is also authorised to create sub committees and to delegate functions of the Licensing Authority to sub-committees and to officers.

### Legislation

- 2.4 Section 101 of the Local Government Act 1972 sets out the arrangements for the discharge of functions by Local Authorities. Section 101 is, however, amended by the 2003 Act to dis-apply these provisions in respect of any licensing functions of the Licensing Authority.
- 2.5 Instead the 2003 Act specifically provides that a Licensing Committee may establish one or more sub-committees consisting of three members of the committee (Section 9). It also provides that regulations may make provisions about the proceedings of Licensing Committees, and their sub-committees (including the validity of proceedings and the quorum of the meeting).

- 2.6 Subject to any such regulations the Licensing Committee may regulate its own procedure and that of its sub-committees (Section 9(3) of the 2003 Act).
- 2.7 The 2003 Act also provides that the Licensing Committee may arrange for the discharge of any functions exercisable by it:
- (a) by a sub-committee established by it, or
  - (b) by an officer of the Licensing Authority.
- 2.8 Where arrangements are made for a sub-committee to discharge functions, that sub-committee may in turn arrange for the discharge of the function by an officer of the Licensing Authority.
- 2.9 The powers of the sub-committee to delegate to officers are subject to any direction given by the Licensing Committee to the sub-committee (Section 10(5) of the 2003 Act).
- 2.10 The arrangements may provide for more than one sub-committee or officer to discharge the same function concurrently (Section 10(3)).
- 2.11 There are limitations to the power to delegate in relation to a number of different functions. Generally where representations or objections have been made in respect of particular applications decisions cannot be delegated to an officer. These limitations are set out in Section 10(4) of the 2003 Act.

### **3 Main issues**

#### Licensing Committee Terms of Reference

- 3.1 The terms of reference for the Licensing Committee were agreed at the annual Council meeting held on 21 May 2015. The terms of reference are attached at **Appendix 1** of this report for members' information.
- 3.2 Members should note that under Section 7(3) of the 2003 Act, full Council may arrange for the Licensing Committee to discharge any function of the Authority which "relates to" a matter referred to the committee but which is not a licensing function.
- 3.3 Members should note that the power to make a Designated Public Places Order in respect of alcohol consumption under the Criminal Justice and Police Act 2001 was delegated by full Council to the Licensing Committee on 11 January 2006.
- 3.4 Members should also note that the following functions were also delegated by full Council to the Licensing Committee on 14 July 2010

hackney carriages and private hire vehicles  
sexual entertainment venues, sex shops and sex cinemas  
performances of hypnotism  
charitable collections

### Appointment of Sub-Committees

- 3.5 As referred to above, the Licensing Committee may establish one or more sub-committees consisting of three members of the committee. Previously five sub-committees were established each with three members. It is again proposed that five sub-committees are established in order to deal with hearings under the 2003 Act, the 2005 Act and other routine matters. Due to changes in the membership of the Licensing Committee it is now necessary to re-appoint the sub-committees.

### 3.6

#### Membership

The proposed membership of each sub-committee is set out in **Appendix 2** to this report. The rules on political balance do not apply to sub-committees however officers have suggested sub committee membership which takes into account levels of experience as well as ensuring a mix of political parties and wards.

#### Substitutes

- 3.7 The licensing procedure rules approved previously provide that the fifteen members of the licensing committee form a pool for the purposes of substitutions to the sub-committees. Therefore any member of the Licensing Committee can substitute for any other member at any meeting of a sub-committee.

#### Appointment of Chairs

- 3.8 Chairs are not appointed to each sub-committee, but instead, the members present at each meeting of a sub-committee appoint the chair from their numbers.

#### Quorum

- 3.9 The quorum of meetings of the Licensing Committee is five, and for the sub-committee, three. However, on 5 June 2007 the Licensing Committee did approve that in exceptional circumstances on the day of the sub-committee hearing and after all other avenues to seek a third member have been exhausted, a quorum of two will be permissible. It is proposed that the same principles be applied. These rules are set out in the proposed procedure rules set out in a separate report.

#### Sub-Committee Terms of Reference

- 3.10 The proposed terms of reference for the licensing sub-committees are set out at **Appendix 3** to this report. These are unchanged from previous years. Members will recall that sub-committees do not deal with large scale or outdoor events like the Leeds Festival. Such events raise serious issues of public safety, crowd control and public nuisance. As such it was felt they should be the subject of consideration by the full Licensing Committee. Sub-committees will still deal with smaller outdoor events. These applications do not raise the same issues as large scale outdoor events.
- 3.11 Members will note a paragraph in the terms of reference which states that the sub-committee can also deal with any other hearing required under the 2003 or 2005

Acts, but which may not be specified in the terms of reference. This is to ensure that as legislation comes into force the sub-committee is able to continue to deal with all hearings relating to the council's licensing functions without having to necessarily amend the licensing sub-committees terms of reference each time. It is intended that the licensing sub-committees terms of reference will be regularly updated with any new legislation, this proposal is a measure designed to prevent potential difficulties with the timely disposal of licensing hearings.

- 3.12 The terms of reference also include some matters that were previously delegated to the Licensing and Regulatory Panel which was disbanded during the 2010/11 municipal year. Licensing Committee has previously delegated contract driver permit appeals, hypnotism and street collection licensing and appeals against an officer refusal to allow a trade representation to join the hackney carriage forum. It is proposed that those matters be re-delegated in the municipal year 2015/2016.
- 3.13 Members should also note that under the proposed terms of reference all applications for the grant, renewal, variation or transfer of sexual entertainment venues licences irrespective of whether objections have been received, the grant or variation of sex shop or sex cinema licences irrespective of whether objections have been received, the renewal or transfer of sex shop or sex cinema licences where objections have been received will be heard by a sub-committee. Officers will have delegated authority to deal with the renewal or transfer of sex shop or sex cinema licences where no objections have been received. Any case where an officer has decided not to exercise their delegated authority will refer the matter to the subcommittee for determination.
- 3.14 The committee is asked to approve the licensing sub-committee terms of reference as shown at **Appendix 3**.

#### Officer Delegation Scheme

- 3.15 Members will recall as set out in paragraph 2.7 above that the Licensing Committee may arrange for the discharge of any functions exercisable by it to be carried out by an officer of the Licensing Authority. The Licensing Committee has previously delegated functions to the Assistant Chief Executive (Citizens and Communities) as set out in the Officer Delegation Scheme shown at **Appendix 4**. Licensing Committee is now requested to delegate the same functions to the Assistant Chief Executive (Citizens and Communities).
- 3.16 Members will be aware that the Police Reform and Social Responsibility Act 2011 allows the licensing authority to act as a responsible authority in relation to the 2003 Act and so to make representations on applications and seek reviews where appropriate. The Guidance issued by the Secretary of State recommends that there be separation between the roles of those involved in making representations or seeking reviews and those involved in making decisions on such matters. That separation should extend to keeping the role separate to that of the officers supporting the sub-committee decision making process. Both these roles are covered in the delegation by the Licensing Committee to the Assistant Chief Executive (Citizens and Communities), however it is proposed to again sub-delegate this responsibility to the appropriate officers of Entertainment Licensing.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

4.1.1 There are no implications for consultation and engagement arising from this report

### **4.2 Equality and Diversity / Cohesion and Integration**

4.2.1 There are no implications for equality and diversity or cohesion and integration arising from this report.

### **4.3 Council policies and City Priorities**

4.3.1 There are no policies which cover the matters set out in this report.

### **4.4 Resources and value for money**

4.4.1 Adopting the recommendations of this report will ensure efficient decision making and reduce legal challenges.

### **4.5 Legal Implications, Access to Information and Call In**

4.5.1. A clear delegation framework will minimise the risk of legal challenge.

4.5.2. There are no matters contained in this report which are potentially exempt from the press and public.

4.5.3. The matters in this report are not eligible for call in as they relate to council functions.

### **4.6 Risk Management**

4.6.1 The appointment of sub-committees to carry out the licensing functions and delegations to officers as appropriate is consistent with good corporate governance arrangements.

## **5 Conclusions**

5.1 That the Licensing Committee should adopt the arrangements set out in this report.

## **6 Recommendations**

6.1 Members of the Licensing Committee are requested to note the terms of reference of the Licensing Committee as approved by full Council on 21 May 2015 as shown at Appendix 1.

6.2 Members of the Licensing Committee are asked to establish five licensing sub-committees hearings required under the 2003 and 2005 Acts

6.3 Members of the Licensing Committee are asked to approve the membership of each sub-committee as set out in Appendix 2 of this report.



- 6.4 Members of the Licensing Committee are asked to approve the terms of reference for the licensing sub-committees as set out in Appendix 3 of this report.
- 6.4.1 Members of the Licensing Committee are asked to approve the delegation of licensing functions to the Assistant Chief Executive (Citizens and Communities) as shown in Appendix 4 to this report.

## **7 Background documents<sup>1</sup>**

- 7.1 None

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<sup>1</sup> 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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## The Licensing Committee

With the exception<sup>1</sup> of

- any licensing function under the Licensing Act 2003 (the 2003 Act) or the Gambling Act 2005 (the 2005 Act) reserved to full Council;<sup>2</sup> or
- any licensing function where full Council has referred a matter to another committee,<sup>3</sup>

the Licensing Committee is authorised to discharge<sup>4</sup> the following functions<sup>5</sup>:

1. to discharge the licensing functions of the licensing authority;<sup>6</sup>
- 2.1 to discharge any other function of the authority referred to it by full Council;<sup>7</sup>
- 2.2 pursuant to the provision in section 2.1 above full Council has delegated to the Licensing Committee the following functions:
  - 2.2.1 the power to make a designated public places order in respect of alcohol consumption under the Criminal Justice and Police Act 2001<sup>8</sup>
  - 2.2.2 the power to designate an area as an Alcohol Disorder Zone<sup>9</sup>
  - 2.2.3 hackney carriages and private hire vehicles<sup>10</sup>
  - 2.2.4 sexual entertainment venues, sex shops and sex cinemas<sup>11</sup>
  - 2.2.5 performances of hypnotism<sup>12</sup>
  - 2.2.6 charitable collections<sup>13</sup>

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<sup>1</sup> In accordance with Section 7(2) of the 2003 Act or s154 (2) (a) and (c) of the 2005 Act.

<sup>2</sup> Part 3, Section 2A of the Constitution sets out licensing functions reserved to full Council, as licensing authority under the 2003 Act and under the 2005 Act.

<sup>3</sup> Under the provisions of Section 7(5)(a) of the 2003 Act.

<sup>4</sup> The Committee may arrange for any of its functions to be discharged by one or more sub-committees, or by an officer, subject to the exceptions set out in Section 10(4) of the 2003 Act see also Section 154 of the 2005 Act.

<sup>5</sup> 'Functions' for these purposes shall be construed in a broad and inclusive fashion and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions.

<sup>6</sup> This includes the power to set fees under Section 212 of the 2005 Act

<sup>7</sup> Full Council may arrange for the Licensing Committee to discharge any function of the authority which relates to a matter referred to the Committee but is not a licensing function (Section 7(3)). It may also refer a matter to the Committee where a matter relates to both a licensing function and to a function of the authority which is not a licensing function, and arrange for the Committee to discharge the other function (Section 7(5)(b) of the 2003 Act). Before exercising this power, the Council must consult with the Committee.

<sup>8</sup> Item 49 of Para I of Schedule 1 to the 2000 Regulations

<sup>9</sup> Item 50 Para I of Schedule 1 to the 2000 Regulations

<sup>10</sup> Item 3 – 5 of Para. B of Schedule 1 to the 2000 Regulations

<sup>11</sup> Item 15 of Para. B of Schedule 1 to the 2000 Regulations and Section 27 Policing and Crime Act 2009 and Schedule 3 Local Government (Miscellaneous Provisions) Act 1982

<sup>12</sup> Item 16 of Para. B of Schedule 1 to the 2000 Regulations

<sup>13</sup> Item 39 of Para. B of Schedule 1 to the 2000 Regulations

- 3 in respect of any approval, consent, licence, permission, or registration which they may grant,
  - (a) To impose conditions limitations or restrictions;
  - (b) To determine any terms;
  - (c) To determine whether and how to enforce any failure to comply;
  - (d) To amend, modify, vary or revoke;
  - (e) To determine whether a charge should be made or the amount of such a charge.
4. to make recommendations to full Council in connection with the discharge of its functions as licensing authority;<sup>14</sup> and
5. to receive reports from, and to make recommendations and representations to other committees or bodies as appropriate.<sup>15</sup>

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<sup>14</sup> Including recommendations arising from the monitoring of the operation and impact of the licensing or Gambling policy by the Licensing Committee.

<sup>15</sup> Where the licensing authority exercises its power under Section 7(5)(a) of the 2003 Act the other Committee must consider a report of the Licensing Committee. Where the Council does not make arrangements under Section 7(3), it must (unless the matter is urgent) consider a report of the Licensing Committee with respect to the matter before discharging the function (Section 7(4)).

**LICENSING COMMITTEE 2015/16**

**SUB COMMITTEE MEMBERSHIP**

<b>A</b>			
<b>B</b>			
<b>C</b>			
<b>D</b>			
<b>E</b>			

Membership to be confirmed following the Annual Meeting of Council On 21<sup>st</sup> May 2015

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## **Licensing Sub-Committees**

The Licensing Sub-Committees are authorised to discharge<sup>1</sup> the following functions<sup>2</sup> concurrently<sup>3</sup>:

1. functions<sup>4</sup> under:

- (a) section 18(3) of the 2003 Act (determination of application for premises licences where representations have been made);
- (b) section 31(3) of the 2003 Act (determination of application for provisional statements where representations have been made);
- (c) section 35(3) of the 2003 Act (determination of application for variation of premises licence where representations have been made);
- (d) section 39(3) of the 2003 Act (determination of application to vary designated premises supervisors following police objection);
- (e) section 44(5) of the 2003 Act (determination of application for transfer of premises licences following police objection);
- (f) section 48(3) of the 2003 Act (consideration of police objection made to an interim authority notice);
- (g) section 52(3) of the 2003 Act (determination of an application for review of a premises licence);
- (h) section 53A-C of the 2003 Act (summary expedited review hearings);
- (i) section 72(3) of the 2003 Act (determination of application for club premises certificates where relevant representations have been made);
- (j) section 85(3) of the 2003 Act (determination of application to vary club premises certificates where representations have been made);
- (k) section 88(3) of the 2003 Act (determination of application for review of a club premises certificate);
- (l) section 105(2)(decision to give counter notice following an objection to a temporary event notice);
- (m) section 120(7) of the 2003 Act (determination of application for grant of personal licence following police objection);
- (n) section 121(6) of the 2003 Act (determination of application for renewal of personal licences following police objection);
- (o) section 124(4) of the 2003 Act (revocation of licence where convictions come to light after grant or renewal of personal licences);
- (p) section 20(3) of the 2003 Act (making recommendations for restricting the admission of children to the exhibition of any film)
- (q) section 159 of the 2005 Act (determination of application for premises licences where representations have been made)<sup>5</sup>

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<sup>1</sup> With the exception of those functions set out in paragraphs 1 and 2 above, and subject to any direction given by the Licensing Committee, the Licensing Sub-Committees may arrange for any of these functions to be discharged by an officer (Section 10(2) and (5) of the Licensing Act 2003 (the 2003 Act)).

<sup>2</sup> "Functions" for these purposes shall be construed in a broad and inclusive fashion and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions.

<sup>3</sup> Section 10(3) of the 2003 Act.

<sup>4</sup> Including agreeing whether a hearing is necessary.

<sup>5</sup> Including deciding whether representations are vexatious, frivolous, or will certainly not influence the

- (r) section 187 of the 2005 Act (determination of application for variation of premises licence where representations have been made);<sup>5</sup>
  - (s) section 188 of the 2005 Act (determination of application for transfer of premises licences following objection);<sup>6</sup>
  - (t) section 195 of the 2005 Act (consideration of objection made to an application for reinstatement);<sup>6</sup>
  - (u) section 203 of the 2005 Act (determination of review of a premises licence);
  - (v) section 204 of the 2005 Act (determination of application for provisional statements where representations have been made);<sup>6</sup>
  - (w) section 224 of the 2005 Act (decision to give counter notice following an objection to a temporary use notice);
  - (x) schedule 10 of the 2005 Act (consideration of representations in relation to the proposed rejection of a family entertainment centre permit);
  - (y) schedule 14 of the 2005 Act (consideration of representations in relation to the proposed rejection of a prize gaming permit);
  - (z) schedule 13 of the 2005 Act (consideration of representations in relation to the proposed rejection of an alcohol licensed premises gaming machine permit);
  - (aa) schedule 12 of the 2005 Act (consideration of representations in relation to the proposed rejection of a club gaming permit or club machine permit);
2. Functions relating to any other hearings required under the 2003 Act or the 2005 Act that have not been reserved to the Licensing Committee.
  3. The function of hearing appeals against the refusal to grant a contract driver permit.
  4. The function of licensing performances of hypnotism<sup>7</sup> where an officer has considered they should not exercise their delegated authority and has referred the matter to the sub-committee for determination.
  5. The function of licensing sex establishments<sup>8</sup> (sex shops, sex cinemas or sexual entertainment venues) where either the application is for the grant, renewal or transfer of a licence irrespective of whether objections have been received, or in any other case where an officer has decided not to exercise their delegated authority and has referred the matter to the sub-committee for determination.
  6. The function of licensing persons to collect for charitable and other causes<sup>9</sup> where either objections have been received, or an officer has decided not to

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authority's determination of the application

<sup>6</sup> Including deciding whether representations are vexatious, frivolous, or will certainly not influence the authority's determination of the application

<sup>7</sup> The Hypnotism Act 1952

<sup>8</sup> s2 and sch 3 of the Local Government (Miscellaneous Provisions) Act 1982

<sup>9</sup> Section 5 of the Police, Factories etc (Miscellaneous Provisions) Act 1916 and section 2 of the



exercise their delegated authority and has referred the matter to the sub-committee for determination.

7. Hearing any appeal against an officer decision to refuse to recognise an applicant for the purposes of the constitution for the Hackney Carriage Trade Forum or the removal of recognition under the terms of that document.
8. To discharge any other function referred by the Licensing Committee, including making representations to the Licensing Committee in connection with the discharge of its functions.

#### Exceptions

A Sub Committee is not authorised to discharge functions under paragraph 1 (a) to (e) above where the application relates to an event in the open air, in a temporary structure and where the proposed capacity of the event exceeds 30,000 people.

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## **Assistant Chief Executive (Citizens and Communities)**

Subject to the exceptions listed below, the Assistant Chief Executive (Citizens and Communities)<sup>1</sup> is authorised to discharge the following Council (non-executive) functions:

### **1. Regulatory Functions**

(a)	To approve premises for the solemnisation of marriages	Section 46A of the Marriage Act 1949 and the Marriages (Approved Premises) Regulations 1995(SI 1995/510)
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### **Exceptions<sup>2</sup>**

The Assistant Chief Executive is not authorised to discharge the function above where objections have been received.

### **2. Functions of the Licensing Authority delegated by Full Council**

Subject to the exception set out below, the Assistant Chief Executive (Citizens and Communities) is authorised to discharge the functions of the licensing authority as set out below:-

(a)	Any function of a Licensing Authority <sup>3</sup>	Licensing Act 2003 and any regulations or orders made under that Act <sup>4</sup> .
(b)	Powers and functions relating to late night levy requirements	Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 and any regulations made under that Chapter.

### **Exceptions:**

- any function of the Licensing Authority reserved to full Council<sup>5</sup>;

### **3. Functions of the Licensing Authority delegated by Licensing Committee**

<sup>1</sup> The fact that a function has been delegated to the Assistant Chief Executive does not require the Assistant Chief Executive to give the matter his/her personal attention and the Assistant Chief Executive may arrange for such delegation to be exercised by an officer of suitable experience and seniority. However, the Director remains responsible for any decision taken pursuant to such arrangements.

<sup>2</sup> Under this delegation scheme (Council functions). The General Purposes Committee may however arrange for the discharge of any of its functions by the Assistant Chief Executive - (Section 101(2) Local Government Act 1972.

<sup>3</sup> These functions will be carried out to support those matters which cannot be delegated by the Licensing Authority.

<sup>4</sup> Including functions which, by virtue of the 2005 Act are delegated to the Licensing Committee.

<sup>5</sup> Part 3, Section 2A of the Constitution sets out licensing functions reserved to full Council, as licensing authority under the 2011 Act.

Subject to the exceptions listed below, the Assistant Chief Executive (Citizens and Communities) is authorised to discharge the licensing functions<sup>6</sup> of the licensing authority as set out below:-

(a)	Any function of a Licensing Authority	Licensing Act 2003 and any regulations or orders made under that Act <sup>7</sup> .
(b)	Powers and functions relating to late night levy requirements	Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 and any regulations made under that chapter
(c)	Duty to comply with requirement to provide information to Gambling Commission.	Section 29 of the Gambling Act 2005
(d)	Functions relating to the exchange of information	Section 30 of the Gambling Act 2005
(e)	Functions relating to occasional use notices	Section 39 of the Gambling Act 2005
(f)	Power to designate officer of a licensing authority as an authorised person for a purpose relating to premises	Section 304 of the Gambling Act 2005
(g)	Power to institute criminal proceedings	Section 346 of the Gambling Act 2005
(h)	Power to exchange information	Section 350 of the Gambling Act 2005
(i)	Functions relating to the registration and regulation of small society lotteries	Part 5 of Schedule 11 to the Gambling Act 2005

**Exceptions:**

- any function of the Licensing Authority<sup>8</sup> reserved to full Council<sup>9</sup>;
- any function of the Licensing Authority where full Council has referred a matter to a committee other than the Licensing Committee<sup>10</sup>;
- any function of the Licensing Authority reserved to the Licensing Committee;
- any function of the Licensing Authority within the terms of reference of the Licensing Sub-committees<sup>11</sup>;and
- to object when the Authority is consultee and not the relevant authority considering an application under the 2003 Act

<sup>6</sup> “Licensing functions” means functions under the 2003 Act, the 2005 Act and the Police Reform and Social Responsibility Act 2011.

<sup>7</sup> Including functions which, by virtue of the 2005 Act are delegated to the Licensing Committee.

<sup>8</sup>“Licensing functions” - see footnote 6 above

<sup>9</sup> Part 3, Section 2A of the Constitution sets out licensing functions reserved to full Council, as licensing authority under the 2003 Act.

<sup>10</sup> Under the provisions of Section 7(5)(a) of the 2003 Act.

<sup>11</sup> Except where a Licensing sub-committee has arranged for the discharge of any of their functions by an Officer.

#### 4. Functions related to the Licensing Functions delegated by Licensing Committee<sup>12</sup>

Subject to the exceptions listed below, the Assistant Chief Executive (Citizens and Communities) is authorised to discharge the functions set out in the following table that are delegated to the Assistant Chief Executive (Citizens and Communities) by Licensing Committee

(a)	To license hackney carriages and private hire vehicles	(a) As to hackney carriages, the Town Police Clauses Act 1847 as extended by section 171 of the Public Health Act 1875 and section 15 of the Transport Act 1985 and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 (b) As to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976
(b)	To license drivers of hackney carriages and private hire vehicles	Section 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976
(c)	To license operators of hackney carriages and private hire vehicles	Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976
(d)	** To license sex shops and sex cinemas and sexual entertainment venues.	The Local Government (Miscellaneous Provisions) Act 1982, Section 2, Schedule 3, the Policing and Crime Act 2009, Section 27.
(e)	To license performances of hypnotism.	The Hypnotism Act 1952
(f)	*** To license persons to collect for charitable and other causes	Section 5 of the Police, Factories etc (Miscellaneous Provisions) Act 1916 and section 2 of the House to House Collections Act 1939

#### Exceptions

The Assistant Chief Executive (Citizens and Communities) is not authorised to discharge those functions marked \*\* above where the application is for the grant,

<sup>12</sup> These functions were delegated to the Licensing Committee by full Council on 14 July 2010.

renewal or transfer of a sexual entertainment venue licence irrespective of whether objections have been received, or the grant of a sex shop or sex cinema licence irrespective of whether objections have been made, or renewal or transfer of a sex shop or cinema licence where objections have been received

The Assistant Chief Executive (Citizens and Communities) is not authorised to discharge those functions marked \*\*\* above where objections have been received.

## Report of the City Solicitor

## Report to Licensing Committee

**Date: 22 May 2015**

**Subject: Licensing Procedure Rules, the Code of Practice for Determining Licensing Matters and Prescribed Licensing Training.**

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

## Summary of main issues

1. This report sets out the proposed Rules of Procedure to be followed by the Licensing Committee and the licensing sub-committees in respect of all meetings including those held under the provisions of both the Licensing Act 2003 and the Gambling Act 2005.
  
2. It is necessary for the Licensing Committee to re-affirm the Rules of Procedure each time the Committee is appointed.
  
3. It also highlights the Code of Practice for the Determination of Licensing Matters for Members' information. This code was previously approved by Standards Committee but, following changes to the Member Code of Conduct in 2012, the Standards Committee resolved to transfer responsibility for reviewing, amending and approving the Code of Practice to Licensing Committee.
  
4. Finally the report sets out the arrangements for the prescribed Member Training on licensing under the provisions of Article 8A of the constitution and the Code of Practice.

## Recommendations

5. That Members approve the Licensing Procedure Rules as set out as **Appendix 1** to this report.
6. That Members approve and follow the contents of the Code of Practice for the Determination of Licensing Matters as attached at **Appendix 2**.
7. That Members note the arrangements for the prescribed training programme.

## **1. Purpose of this report**

- 1.1 To put forward for Members' consideration, draft procedure rules relating to hearings and other meetings of the Licensing Committee and sub-committees and to seek the approval of Members to the adoption of these to govern committee procedure.
- 1.2 To put forward for members' consideration the Code of Practice for the Determination of Licensing Matters previously approved by Standards Committee and to ask members to approve and resolve to follow the Code.

## **2. Background information**

- 2.1 Under the Licensing Act 2003 Leeds City Council is appointed as the licensing authority for the Leeds district. With the exception of certain functions (most notably the development of a licensing policy), the Act automatically refers all matters relating to the discharge of licensing functions to a licensing committee, which had to be created and which must discharge those functions on behalf of the authority.
- 2.2 Section 9 (2) of the 2003 Act provides that the Secretary of State may issue regulations governing
  - The proceedings of licensing committees and their subcommittees (including provision about the validity of proceedings and the quorum for meetings)
  - Public access to the meetings of those committees and subcommittees
  - The publicity to be given to those meetings
  - The agendas and records to be produced in respect of those meetings
  - Public access to such agendas and records and other information about those meetings
- 2.3 Subject to the regulations, a licensing committee may regulate its' own procedure and that of its sub-committees.
- 2.4 On 12 January 2005 the Secretary of State issued regulations under Section 9(2) of the 2003 Act<sup>1</sup> in respect of licensing matters, although these only apply to the procedure to be followed in respect of hearings as defined in column 1 of schedule 1 to the Regulations. Effectively this relates to the normal business of licensing-sub committee such as determining applications for premises licences and certificates, variations and transfers of licences and certificates and reviews.

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<sup>1</sup> Licensing Act 2003 (Hearings) Regulations 2005 SI 2005/44



- 2.5 On 2 March 2005 the Licensing Committee approved two sets of procedure rules under the 2003 Act and the associated regulations. The first sets of rules were referred to as the Licensing Committee General Procedure Rules and the second as the Licensing Committee Hearings Procedure Rules. The second set mirrored the Regulations issued by the Secretary of State referred to in paragraph 2.4 above.
- 2.6 Under the Gambling Act 2005 the functions of the council as licensing authority for gambling are also automatically referred to the Licensing Committee created under the 2003 Act. Section 154(5) of the 2005 Act ensures that the provisions of section 9 of the 2003 Act apply to the proceedings of Licensing Committee and Sub Committees when exercising functions under part 8 of the 2003 Act (premises licensing). The Secretary of State can therefore use this provision to make regulations that may apply to both licensing and gambling functions, or may make separate regulations for each Act.
- 2.7 On 27 January 2007 the Secretary of State issued regulations in respect of premises licensing under the 2005 Act<sup>2</sup>. These regulations apply only to the exercise of functions in respect of premises licensing and provisional statements under the 2005 Act. Therefore there are two separate sets of regulations which apply to the conduct of hearings before the Licensing Committee and sub-committees dependant upon which functions are being exercised.
- 2.8 On 3 April 2007 the Committee considered whether the provisions of the Gambling Regulations could be incorporated into the then existing Procedure Rules and concluded that they could not. The Committee then considered whether two full sets of rules should be drafted in relation to the gambling and licensing functions but agreed instead that a revised set of Rules be approved which cross refer to the two sets of regulations without setting out the full provisions of either.

### **3. Main issues**

#### **Licensing Committee Procedure Rules**

- 3.1 The Committee has previously approved one set of Licensing Committee Procedure Rules, which apply to proceedings under both the 2003 Act and the 2005 Act and which cross refer to the relevant regulations. The Rules proposed for adoption by the Licensing Committee and sub-committees at **Appendix 1** to this report are identical to those approved previously.
- 3.2 In relation to hearings held under the 2003 or 2005 Acts before a licensing sub-committee, these must follow the relevant regulations. A legal advisor is present at all hearings of the sub committee and will provide advice on the regulations as required.

#### **Licensing Code of Practice**

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<sup>2</sup> The Gambling Act 2005 (Proceedings of Licensing Committees and Sub Committees) (Premises Licence and Provisional Statements) (England and Wales) Regulations 2007 SI 2007/173

- 3.4 The Code of Practice for the Determination of Licensing Matters was previously approved by the Standards Committee of the council following consultation with the Licensing Committee. It substantially followed the guidance previously produced by LACORs (Local Authority Coordinators of Regulatory Services).
- 3.5 The code applies to all licensing decisions made including decisions of the Licensing Committee, decisions of the licensing sub-committee and any delegated decisions within the terms of reference of the preceding bodies. The code also applies at all times when Members are involved in the licensing process, such as meetings with the public. The aim of the code of practice is to ensure that there are no grounds for suggesting that a licensing decision has been biased, partial or not well founded in any way.
- 3.6 The previously approved Code of Practice for the Determination of Licensing Matters is attached at **Appendix 2** for Members to consider.
- 3.7 A new Members Code of Conduct was adopted by full Council on 12<sup>th</sup> September 2012 and this reflected new guidance issued by DCLG. In addition, the Standards and Conduct Committee met on Friday 11<sup>th</sup> January 2013 and considered a report on the review of the Codes of Practice. Members concluded that the Licensing Committee was better placed to formulate the contents of the Code of Practice than the Standards and Conduct Committee. They also agreed that the Code of Practice should not contain repetition of the requirements of the Members' Code of Conduct and instead should deal with issues affecting the legality of the decision, such as bias and predetermination.
- 3.8 The Code of Practice has been amended to remove any repetition of the Members' Code of Conduct and to make clear that responsibility for amending and approving the Codes of Practice has now been transferred to the Licensing Committee.
- 3.8.1 The Code of Practice provides clarity for Members about the need to give the members Code of Conduct primary consideration followed by the need to avoid a finding of bias and pre-determination in decision making.
- 3.9 Members are requested to consider the Code in the light of their requirements as a Licensing Committee and determine whether or not to approve the Code and if so, to resolve to follow it.

### **Licensing Training**

- 3.11 Members will note from paragraph 10 of the Code of Practice at Appendix 2 that Members on Licensing Committee are required to attend two sessions of licensing training in each municipal year. These are
- a Licensing Update session, to receive guidance in relation to regulations and procedures; and
  - a Governance and Conduct session, for training on disclosable pecuniary interests and the Members' Code of Conduct.
- 3.12 In addition Article 8A of the constitution provides that Members of the Licensing Committee must complete all compulsory training and shall not sit as a member of

the committee or its sub-committees unless such training has been undertaken in accordance with the Council's prescribed training programme.

- 3.13 Members are asked to note that the prescribed training programme consists of a training session for new members appointed to the Licensing Committee. There will be a further refresher training session for all members at the November committee meeting.
- 3.14 In addition to the prescribed training programme officers will continue to offer briefings and training on relevant developments as appropriate wherever possible to be arranged at a time when licensing committee meetings take place to ensure as many members as possible can attend. Members asked to sit on Licensing sub committees dealing with SEV matters would receive specific training on this if required.

## **4. Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 No implications

### **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 No implications

### **4.3 Council policies and City Priorities**

- 4.3.1 There are no policies which cover the matters set out in this report.

### **4.4 Resources and value for money**

- 4.4.1 There are no resource implications in adopting the rules.

### **4.5 Legal Implications, Access to Information and Call In**

- 4.5.1 Failure to adopt and adhere to relevant procedure rules might render decisions susceptible to challenge.
- 4.5.2 There are no potentially exempt matters referred to in this report.
- 4.5.3 This decision is not eligible for call in as it relates to a council function.

### **4.6 Risk Management**

- 4.6.1 Following the Procedure Rules and the Code Of Practice for the Determination of Licensing Matters will assist in preventing claims that decisions have been biased, partial or not well founded.

## **5. Conclusions**

5.1 That Members should adopt the proposed procedure rules, approve the requirements of the Code of Practice for the Determination of Licensing Matters and note the arrangements for the prescribed training programme.

## **6. Recommendations**

6.1 That Members approve the Licensing Procedure Rules as set out as **Appendix 1** to this report

6.2 That Members approve and resolve to follow the contents of the Code of Practice for the Determination of Licensing Matters as attached at **Appendix 2**.

6.3 That Members note the arrangements for the prescribed training programme

## **7. Background documents<sup>3</sup>**

7.1 None

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<sup>3</sup> The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.

## LICENSING COMMITTEE AND SUB COMMITTEE PROCEDURE RULES

### 1. INTERPRETATION

'The Chair' means the Chair of the Licensing Committee.

'The Committee' means the Licensing Committee or Licensing Sub Committee.

'The Relevant Regulations' means the Licensing Act 2003 (Hearings) regulations 2005 SI 2005/44 and the Gambling Act 2005 (Proceedings of Licensing Committees and Sub Committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 SI 2007/173

'The 2003 Act' means the Licensing Act 2003

'The 2005 Act' means the Gambling Act 2005

### 2. SCOPE

These Procedure Rules will apply in respect all matters which are dealt with by the Committee under either the 2003 Act or the 2005 Act

### 3. APPLICATION OF COUNCIL PROCEDURE RULES/ACCESS TO INFORMATION PROCEDURE RULES

Except where the Relevant Regulations provide differently, the Council Procedure Rules and Access to Information Procedure Rules (in so far as they apply to committees and sub-committees) will be followed for all meetings of the Committee.

### 4. APPLICATION OF THE RELEVANT REGULATIONS

The provisions of the Licensing Act (Hearings) Regulations 2005 shall apply to any hearings conducted under the provisions of the Licensing Act 2003<sup>1</sup> and in the event of any conflict between the relevant regulations and the Council Procedure Rules/Access to Information Procedure Rules in relation to such hearings the provisions of the relevant regulations shall prevail.

The provisions of the Gambling Act 2005 (Proceedings of Licensing Committees and Sub Committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 shall apply to the exercise of functions under Section 162 (1) and (2) and Section 201 (4) of the Gambling Act 2005 and in the event of any conflict between the relevant regulations and the Council Procedure Rules/Access to Information Procedure Rules in relation to the exercise of such functions the provisions of the relevant regulations shall prevail.

### 5. APPOINTMENT OF CHAIR

The Authority shall appoint the Chair of the Licensing Committee at its AGM.

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<sup>1</sup> Hearings are defined as those matters referred to in column 1 of schedule 1 to the regulations.

The Chair of each Licensing Sub-Committee shall be elected by the Sub-Committee at the start of each meeting.

## 6. QUORUM

Five Members (including the Chair) shall form a quorum for meetings of the Licensing Committee.

Three Members shall normally form a quorum for meetings of a Licensing Sub-Committee.

In exceptional circumstances such as illness or unanticipated none availability of a Sub-Committee Member it shall be possible for an ordinary business sub committee to conduct a hearing with only two Members present provided that

- Attempts have been made to identify a Member who can substitute for the Member who is not available without success and
- The parties present agree to a quorum of two and
- The resultant decision is unanimous

The Large Casino Sub-committee and the SEVs Sub-committee may not operate to a quorum of less than 3 Members present.

Except where authorised by statute, business shall not be transacted at a meeting unless a quorum is present.

## 7. SUBSTITUTE MEMBERS

### Allocation

No substitute Members are appointed for the Licensing Committee.

In relation to each ordinary business Licensing Sub-Committee, the Licensing Committee has appointed substitute Members, comprising all other Members of the Licensing Committee.

In relation to the Large casino Sub-committee and the SEVs Sub-committee the Licensing Committee has appointed 5 Members to each sub-committee. That pool of 5 Members will form a sub-committee of three Members with two substitute Members if required.

### Substitution

A substitute Member shall be entitled to attend in place of a regular Member provided that the Committee Clerk has been notified of this before the meeting begins. Once the meeting has begun, the regular Member in respect of whom notification has been received, shall no longer be entitled to attend that agenda item as a Member of the Licensing Sub-Committee concerned.

Powers and duties

A substitute Member will have all the powers and duties of any regular Member of the Licensing Sub-Committee but will not be able to exercise any special powers or duties exercisable by the person for whom s/he is substituting.

A substitute Member shall be for all purposes a duly appointed Member of the Licensing Sub-Committee to which s/he is appointed as a substitute Member for the meeting in question and shall have the like duties, powers and responsibilities as the member whom s/he is replacing.

**8. MEETINGS OF THE COMMITTEE**

The Chair of the Committee or the Chief Executive may call a meeting at any time.

A special meeting of the Committee may be called on the requisition of any 3 Members of the Committee delivered in writing to the Chief Executive. The summons to such a special meeting shall set out the business to be considered and no business other than that set out in the summons shall be considered at that meeting.

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## CODE OF PRACTICE FOR THE DETERMINATION OF LICENSING MATTERS

### 1.0 INTRODUCTION

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

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

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

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

#### 1.3 This code of practice applies as follows:

- Sections 1-2 apply to all Members.
- Sections 3-8 apply particularly to Members of the Licensing Committee.
- Sections 9-10 apply to officers.
- Sections 11-13 deal with monitoring and review

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

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

#### 1.6 If you do not abide by this Code you may put the Council at risk of proceedings on the legality or maladministration of the related decision.

#### 1.7 If you make or are involved in a licensing application, you should:

- Notify the Monitoring Officer in writing of your own application (or that of a relative or employer where known) or where you are employed as an agent.
- Consider whether it is advisable to employ an agent to act on your behalf in dealing with officers and any public speaking at a licensing hearing.
- Ensure that you have arranged for a substitute to attend the hearing in your place.

## 2.0 BIAS AND PREDETERMINATION IN THE LICENSING PROCESS

- 2.1 Section 25(2) of the Localism Act 2011 sets out that a decision maker is not to be taken to have had, or to have appeared to have had, a closed mind when making a decision just because –
- (a) the decision maker had previously done anything that directly or indirectly indicated what view the decision maker took, or would or might take in relation to a matter, and
  - (b) the matter was relevant to the decision.
- 2.2 The above section was enacted to clarify that predetermination occurs where someone has a closed mind, with the effect that they are unable to apply their judgement fully and properly to an issue requiring a decision. The section makes it clear that if a councillor has given a view on an issue, this does not show that the councillor has a closed mind on that issue, so that if a councillor has campaigned on an issue or made public statements about their approach to an item of council business, he or she will be able to participate in discussion of that issue in the council and to vote on it if it arises in an item of council business requiring a decision.
- 2.3 Having said this, the words 'just because' in Section 25 suggest that other factors when combined with statements made etc. can still give rise to accusations of predetermination so care still needs to be taken.
- 2.4 Given the requirement that Members of the Licensing Committee or Sub Committee should exercise an independent mind and decide proposals in accordance with the relevant licensing considerations, Members must not favour any person, company, group or locality or commit themselves to a particular point of view on a licensing decision prior to its full consideration at the Licensing Committee or Sub Committee.
- 2.5 **Do not** make up your mind or give the impression of making up your mind (particularly in relation to an external interest or lobby group) prior to the decision making meeting and of your hearing the officer's presentation and the evidence and arguments on both sides.
- 2.6 **Do** be aware that you are likely to be biased or pre-determined where the Council is the landowner or applicant **if** you have been or are perceived as being, a chief advocate for the proposal. This will not necessarily arise from being a member of the proposing board or the Executive but through a significant personal involvement in preparing or advocating the proposal by which you may be perceived as being unable to act impartially or determine the proposal purely on its licensing merits and in the public interest.
- 2.7 **Do remember** that you are, of course, free to listen to a point of view about a licensing proposal, give procedural advice and agree to forward any comments, but should then refer the person to the appropriate licensing officer.
- 2.8 **Do not** use any political group meetings prior to the Licensing Committee or Sub Committee meeting to determine how you or other Councillors should vote. There is no objection to a political group having a predisposition, short of predetermination, for a particular outcome or for you to begin to form a view as more information and opinions become available, but decisions can only be taken

after full consideration of the Licensing Officer's report and documents and information considered at the Hearing.

### **3.0 MEMBERSHIP OF PARISH COUNCILS, AREA COMMITTEES AND OUTSIDE BODIES**

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

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

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

### **4.0 SPOUSE/PARTNER COUNCILLORS**

4.1 There may be occasions when the spouse or partner of a Member, usually a member for the same Ward, is also a Member of the Licensing Committee or Sub Committee. That Member might quite properly refer constituents who wish to make representations to his or her spouse or partner rather than be directly lobbied. Generally the fact that the spouse or partner Councillor has been approached will not affect your ability to speak and vote at a licensing hearing.

4.2 **Consider** if your spouse or partner is so closely involved with the support for, or opposition to, an application that a member of the public might reasonably think that the involvement is such that you must be biased or have predetermined the application.

### **5.0 CONTACT WITH APPLICANTS AND OBJECTORS**

5.1 In order to maintain impartiality, it is preferable that Members are not involved in pre-application discussions but there will be occasions when this can be unavoidable. The following guidance is given.

- **Do not** agree to any formal meeting with applicants, or groups of objectors where you can avoid it. Where you feel that a formal meeting would be helpful in clarifying the issues, you should not arrange it yourself, but request the Licensing Officer to do so. The officer will then ensure that those present are aware that any discussion will not bind the Council and maintain a written file record of the meeting.
- **Do** refer those who approach you for advice to officers.
- **Do** follow the rules on lobbying.

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

## 6.0 MEMBERSHIP OF A LOBBY GROUP

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

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

## 7.0 SITE VISITS

- 7.1 Site Visits can play a legitimate part in the decision making exercise but must be limited to inspections by viewing and as a fact finding exercise. They are not to be used to determine a proposal prior to a hearing. Due to the tight timescales involved in licensing decisions, site visits must be viewed as an exception rather than the rule.
- 7.2 When undertaking a site visit Members should also have regard to the following paragraphs of the Code of Practice for Determining Licensing Matters:
- ❖ Paragraph 2 - Bias and Predetermination in the Licensing Process.
  - ❖ Paragraph 5 - Contact with Applicants and Objectors.

## 7.3 THIS SECTION APPLIES TO MEMBERS REQUESTS FOR A SITE VISIT

- 7.3.1 If a Member feels, on receipt of the report on an application, that a site visit would be beneficial, s/he should first discuss their concerns with a Principal Licensing Officer. Officers have powers to request additional information from parties, which can then be discussed at the hearing. This information may resolve the issues without the need for a site visit. If a Member still feels that a site visit is necessary then, in the interest of fairness, it is preferable that concerns should be expressed at the scheduled hearing since Members may find that the applicant, interested parties or responsible authorities can provide verbal information to the satisfaction of the Members present.

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

#### **7.4 THIS SECTION APPLIES TO SITE VISITS AS PROPOSED BY OFFICERS**

- 7.4.1 The Principal Licensing Officer may suggest the Committee or a Sub Committee undertake a Site Visit without prior discussion at a hearing, where in the professional opinion of the Officer there is a real benefit from viewing the site.
- 7.4.2 In such cases, officers will approach Members seeking a date for the site visit and hearing – usually in the form of an e-mail in the first instance.
- 7.4.3 The e-mail should set out the proposal for a site visit, the reasons behind the request; the projected benefit for Members; the address of the premise; the type of application and set out the arrangements for the visit.
- 7.4.4 Some site visits can only be conducted at night in order to gauge an accurate impression of the proposal being discussed. On occasion the site visits will also include a viewing of the site ‘in performance’.
- 7.4.5 In other cases it is usual for the site visit on an application to commence at 9.30 am (departing from the Civic Hall) and for the formal meeting to commence at

11.00 am in the Civic Hall to determine the application. As such it is anticipated that hearings will not conclude until the afternoon.

- 7.4.6 Having made proposals for a site visit, officers will seek confirmation from the Members able to attend that they are happy to undertake the propose site visit.

## **7.5 ON THE SITE VISIT**

- 7.5.1 **DO** ensure that any information gained from the site visit is reported back at the subsequent hearing.
- 7.5.2 **DO** ensure that you treat the site visit as an opportunity to seek information and to observe the site. It is not to be used to determine a matter prior to the hearing.
- 7.5.3 **DO** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- 7.5.4 **DO** be prepared to listen to and ask questions of fact from the Applicant or other parties.
- 7.5.5 **DO** be aware that Officers will make all parties aware of the site visit. All parties may attend subject to being granted access by the owner (see below). If only one party is present be particularly careful only to obtain information and ensure that that information is repeated at the public meeting where the other parties have a right to comment on it.
- 7.5.6 **DO** be aware that access to the site is at the discretion of the owner. The owner can legitimately refuse access to objectors and even Members. If access is to be refused consider whether it is still appropriate to undertake the visit.
- 7.5.7 **DO NOT** be drawn into arguments or detailed discussions on the individual merits of an application or give the impression that you have made up your mind.
- Note that** the decision can only be made at the Licensing Hearing and you should make this clear to any applicant or other party.
- 7.5.8 **DO** note comments of the applicant or other parties which are made solely for the purpose of making members aware of any specific local circumstances and issues relevant to the application site.
- 7.5.9 **DO NOT** express opinions or views to anyone which can suggest bias or predetermination. As indicated above, you should make it clear that formal consideration of the proposal will take place in public at the subsequent hearing/meeting.
- 7.5.10 **DO NOT** enter a site which is subject to an application otherwise than on a formal site visit although this does not prevent you from viewing the site from the highway or other publicly accessible area.

## **8.0 TRAINING**

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

## **9.0 OFFICERS**

- 9.1 Councillors and officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate whilst officers are responsible to the Council as a whole. Officers are employed by the Council and not by individual Councillors and instructions can only be given through a decision of the Council, the Executive or a Panel or Committee. A successful relationship can only be based on mutual respect, trust, courtesy and understanding of each others positions.
- 9.2 The role of the Legal officer is to assist the committee in gathering evidence and understanding all relevant issues in order for Members to make a decision, and to advise on the sub committees' legal duties under the relevant legislation and on the admissibility of evidence.
- 9.3 As and when appropriate legal advice should be given or repeated in open session for all parties to be made aware of.
- 9.4 The role of the Governance Officer is to facilitate the smooth running of the hearing; advise on the Rules of Procedure and Regulations relating to hearings; make notes of the proceedings and reasons for granting or refusing applications; and ensure that decision letters are sent to all parties as soon as possible after the hearing.
- 9.5 The role of the Licensing Officer attending the hearing is neutral. They will make no recommendations to the Committee and attend hearings only to provide a summary report of the application, giving details of the representations received and any relevant legislative or policy considerations. However there is a separate but distinct officer role which is exercised by Liaison and Enforcement Officers from Entertainment Licensing who may make representations on applications or seek



reviews. The roles of these officers and the Licensing Officer processing applications and hearing reports are (and must remain) separate.

- 9.6 **Do not** put pressure on Licensing officers to put forward a particular recommendation.
- 9.7 **Do** recognise that officers are part of a management structure and only discuss an application, outside of any arranged meeting with those officers who are authorised to deal with the application at Member level.
- 9.8 **Do** recognise and respect that officers involved in the processing and determination of licensing application must act in accordance with the Council's Employee Code of Conduct. As a result, officers reports will be presented on the basis of their overriding obligation of professional independence.

## **10.0 RELATIONSHIP WITH THE EMPLOYEE CODE OF CONDUCT**

- 10.1 The Council has an approved Employee Code of Conduct. That Code applies at all times when officers are involved in the licensing process. This includes decision making by officers under delegated powers and attendance at meetings whether those are formal decision making meetings or informal meetings with members or the public.
- 10.2 Officers must apply the rules in the Employee Code of Conduct at all times. If they do not they may put the Council at risk of proceedings on the legality of any related decision, and may put themselves at risk of disciplinary action.
- 10.3 Generally licensing officers have little discretion in making licensing decisions. However there may be situations where they are called upon to exercise discretion such as deciding whether an objection is relevant. Other officers such as those employed by Environmental Health or Development have discretion on whether to object. Legal officers and committee clerks remain in the room with Members when decisions are made.
- 10.4 In all cases officers must avoid any improper conduct or occasion for suspicion of the appearance of improper conduct and should:-
- Ensure that they have given notice of any financial interest in any contract which has been or is proposed to be entered into by the Council.
  - Not accept gifts, entertainment, hospitality or any benefits in kind as set out in the Employee Code of Conduct.
  - Declare to their Director by completing the Register of Interests Form any personal interests which may conflict with licensing applications such as:
    - any involvement with an outside organisation which has an interest in any licensing application;
    - any financial interest in any licensing application; and
    - any other interest where others may think that a conflict of interest may arise. Examples of such situations include where the officer lives adjacent to any licensed premises or visits the premises in a personal capacity on a regular basis.

- 10.5 Officers should also consider whether their spouse, partner or close relative has a financial or other interest in a licensing application which may give rise to the suspicion of the appearance of improper conduct and where the officer may therefore need to declare an interest.
- 10.6 Where an officer has declared an interest he or she should not participate in the processing of a licensing application but should instead refer the matter to his or her Manager who will arrange for another officer to discharge the duties.

## **11.0 PROCEDURES AT LICENSING HEARINGS**

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

## **12.0 MONITORING AND REVIEW**

- 12.1 The Monitoring Officer shall monitor the following, and will report annually to the Corporate Governance and Audit Committee in relation to these matters:-
- the number of appeals upheld;
  - any external inspection reports in respect of relevant issues; and
  - any ombudsman complaints or reports in respect of relevant issues.

## **13.0 BREACHES OF THE CODE OF PRACTICE**

- 13.1 Failure to comply with this code of practice may lead to a finding of maladministration by the Ombudsman or could lead to a decision being challenged in the courts.
- 13.2 Allegations of a breach of this code of practice by Officers will be referred to the relevant Director for consideration under the Council's Disciplinary Procedure.



Report author: Des Broster  
Tel: 3781562

## Report of Head of Licensing & Registration

### Report to Licensing Committee

**Date: 22 May 2015**

**Subject: Digital advertising screens in licensed vehicles – Presentation of further information and review of Licensing Committee recommendations of 9 September 2014**

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. Licensing Committee has previously recommended to the Executive the approval of Digital advertising screens in aftermarket head restraints in licensed vehicles.
2. As a public safety measure and to meet its statutory licensing requirements a condition was imposed that required documentation from vehicle manufacturers to approve the replacement of the manufacturer's original head restraint with the aftermarket product in question. That condition has been challenged.
3. This report includes expert opinion in addition to that previously supplied by Officers and makes additional recommendations but maintains a public safety viewpoint.
4. The recommendation to approve the concept of the advertising format is not affected by this report or recommendations.

### Recommendations

5. Members, in the first instance, decide whether or not they consider a head restraint to be a safety critical item in a licensed passenger vehicle.
6. If so, that Members then consider if in this case it is considered appropriate or otherwise to move away from the exiting licensing condition which requires all licensed

vehicles to retain the original vehicle safety accreditation achieved under European Whole Vehicle Type Approval (EWVTA).

7. If Members determine to retain that condition they should determine whether the approved UN ECE Reg. 25 is a proportionate requirement to determine the product safety of the aftermarket head restraint and meets its licensing obligations in respect of head restraints enabling a safe variation to the policy when appropriate.
8. That Members consider the proposed Conditions in respect of the product and the licensed vehicle proprietor and make an appropriate recommendation to the Executive.

## **1 Purpose of this report**

- 1.1 To enable Members to consider the objections to a previous recommendation which imposed a requirement to produce letters of approval from vehicle manufacturers approving digital advertising screens fitted within head restraints in their manufactured vehicles.
- 1.2 Additional expert opinion has been obtained to enable Members to reconsider and determine whether the Council's own licensing conditions should be relaxed or if the applicants aftermarket head restraint should undertake testing to a degree recognised by UN ECE regulations prior to being approved as safe to fit in licensed vehicles.

## **2 Background information**

- 2.1 An Officer report was submitted to Licensing Committee on 9 September 2014 to enable the Licensing Committee to consider if they approved, in principle, the installation of digital advertising screens in licensed vehicles. Members did approve in principle and also approved the safety control measure identified by Officers. The applicant, Mr Crake, spoke at the Committee and did not object to the proposed recommendations of the Committee.
- 2.2 Subsequently the applicant and a Private Hire organisation have objected, in particular to the Officer safety recommendation set out below:-  
  
*This should be overcome on a case by case basis with the supplier of the equipment and the proprietor of the licensed vehicle supplying individual accredited statements of conformity for each vehicle in which it is proposed to fit media screens. The minimum standard would be a technical approval declaration from the vehicle manufacturer.*
- 2.3 Mr Crake felt the requirement to obtain a form of approval from the vehicle manufacturer was too onerous, disproportionate and unachievable.
- 2.4 Adverse observations were made about other areas of the report particularly the requirement for Officers to inspect the vehicle after fitting the head restraint.
- 2.5 It was also suggested to be a case of double standards by the Council when approval of this product was not matched in terms of safety considerations by other aftermarket products allowed in licensed vehicles for example; PDAs, satellite navigation, taxi meters, accident impact cameras.
- 2.6 Officers have considered where such items are located and generally they are in the vicinity of the driver and also most often not in the head impact zone for a front seat passenger, neither are they safety critical features which have been designed into a vehicle.
- 2.7 Following direct representations to the Chair of the Licensing Committee a further report was presented to the Licensing Committee on 10 March 2015.

- 2.8 Mr Crake and the Private Hire organisation were allowed time to address Members at Committee. The information presented by them challenged the reasonableness of the Officer recommendations in requiring documentation from vehicle manufacturers and other aspects of the reports; and cast doubt on the legal framework referred to by Officers which had been used to substantiate their concerns in the report.
- 2.9 Members determined that consideration of the report be deferred to allow all parties to receive and consider any new information and determine if any areas of dispute remain.

### **3 Main issues**

- 3.1 On 8 April 2015 Officers met with Mr Martin Gaffney, solicitor, who it is understood represents Mr Crake, Mr Dale Askham and Mr John Askham to discuss the areas of concern. Officers had been presented with a report from Mr Dale Askham which appears at **Appendix 1**. Mr Crake did not attend.
- 3.2 The meeting enabled Officers and representatives to speak face to face about the issues, but unfortunately there was no resolution although there were some areas of common understanding.
- 3.3 Officers have taken independent expert advice on those issues raised. That expert opinion has come from an eminent engineering source. The opening questions posed are set out below to demonstrate the qualifications and expertise of the advisor.

#### **1. Your full name and business address.**

*Anthony Soper, Principal Engineer - Homologation*

*Millbrook Proving Ground, Bedford, MK45 2JQ*

[www.millbrook.co.uk](http://www.millbrook.co.uk)

*(Officer explanation:- Homologation is the granting of approval by an official authority. This may be a court of law, a government department, or an academic or professional body, any of which would normally work from a set of strict rules or standards to determine whether such approval should be given. The word may be considered very roughly synonymous with accreditation. Certification is another possible synonym.*

*In today's marketplace, for instance, products must often be homologated by some public agency to assure that they meet standards for such things as safety and environmental impact. A court action may also sometimes be homologated by a judicial authority before it can proceed, and the term has a precise legal meaning in the judicial codes of some countries. The equivalent process of testing and certification for conformance to technical standards is usually known as Type Approval in English-language jurisdictions.)*

#### **2. Your professional qualifications, the extent of your associated experience and number of years of such experience.**

*CEng MIMechE Principal Engineer – Homologation, Millbrook Proving Ground.*

*I am the Principal Engineer for Homologation at the Millbrook Proving Ground, and have performed this role since 2002. I am a graduate from Southampton University and Chartered with the Institute of Mechanical Engineers and have extensive experience in many aspects of automotive testing, development, validation and certification.*

#### **KEY SKILLS**

- *Management of type approval projects from initial consultation, through worst casing, to final certification by an approval authority.*
- *Practical experience in gaining approvals to all UK National, United Nations and European Community type approval schemes.*
- *In depth knowledge of the standards and regulations required to support the automotive and military vehicle approval process.*
- *Experience of gaining European Community Whole Vehicle Type Approval (2007/46EC) for IC, LPG, CNG and electrically propelled vehicles.*
- *Project management of automotive development programs including whole vehicle, component and legislative testing.*
- *Project management of various Ministry of Defence vehicle system requirement and compliance programmes.*
- *Member of the Society Of Motor Manufacturers & Traders Working groups for Type Approval, Brakes, Noise, Intelligent transport and Electrically powered vehicles.*
- *Member of the liaison committee representing vehicle converters with the Department for Transport*
- *Primary interface between Millbrook and Vehicle Certification Agency for all test projects*

#### **3. What your organisation does (with some detail please), any accreditations it has to industry, research, Government, VCA etc.**

*See [www.millbrook.co.uk](http://www.millbrook.co.uk) Millbrook Proving Ground is an independent technical service and test house. It works in partnership with world industry leaders to deliver engineering, testing, development and certification solutions across a wide range of sectors, including automotive, transport, energy and defence.*

*Millbrook's test facilities are accredited by the Vehicle Certification Agency, who maintain and staff an onsite office to witness certification tests*

*Millbrook is a category A technical service for the Driver and Vehicle Standards Agency (DVSA)*

*Millbrook is a category A technical service for the Dutch approval authority (RDW)*

#### **4. Can you explain what EC Regulation 17 is?**

*United Nations Economic Commission for Europe (UN ECE) Regulation 17 concerns the approval of vehicles with regard to the seats, their anchorages and any head restraints. Compliance with this regulatory act is currently required by European Community Whole Vehicle Type Approval (ECWVTA) framework directive 2007/46 (Annex IV Item 15) for the purposes of type approval for M and N category vehicles.*

*The regulation covers the strength of seats and their anchorages, the design of the rear parts of seat backs, head restraints and luggage retention (luggage retention only applies to M1 category vehicles pursuing approval to ECE Regulation 17.08).*

*Front outboard seats are required to have head restraints. Head restraints will be tested in the most unfavourable position (generally the highest position) allowed by its adjustment mechanism. Head restraints height and width (in relation to declared 'H' point and torso angles) is checked to ensure that they comply with the dimensional requirements.*

*A seat anchorage test is performed. This is a dynamic sled acceleration test (conducted in the forward & rearward directions), conducted in a representative vehicle body in order to verify adequate seat strength and attachment to the vehicle body as a result of its own mass and resultant inertia.*

*Seat structural strength tests are specified, where a force producing a moment is applied to each seat (applied simultaneously for each seating position in the case of bench seats). If the force on the head restraint (if applicable) is greater than the resulting moment on the seat back the head restraint strength test can be combined into one test.*

*Energy dissipation tests are required, where impacts on head restraints are conducted from the front and rear (those from the rear are only required if there are seats behind the seat in question). If there is no head restraint on the seat being tested then only an impact from the rear is required (again, only if there are seats behind the seat in question).*

*A radii check is performed on de-trimmed seat backs, where there are requirements for minimum edge radii (the radii will depend on the area of the seat back). This is not required on the rearmost seat row (unless one side of a bench can be folded) or back-to-back seats.*

*Luggage retention (if applicable) is a dynamic sled test (simulating a forward impact) with test blocks conducted in order to verify the luggage retention system when impacting the most rearward row of seating.*

#### **5. Has EC Regulation 17 been repealed or replaced by other legislation, if so, please define and explain.**



*UN ECE R17 (Supplement 2 to the 08 series of amendments, entry into force 10.06.14) is the current regulatory act required for ECWVTA (see question 4). This regulation is called up in place of European Economic Community directive 74/408, which was repealed on November 1st 2014*

**6. Do head restraints still form part of the testing regulations as described in EC Regulation 17 to achieve EWVTA ?**

*Yes, see question 4*

*Ends*

- 3.4 Officers have impressed upon Members the view that head restraints are a critical safety feature in vehicles and Mr Soper explains the type of testing undertaken. (This testing was an attachment in the report of 10 March 2015 and is further attached).
- 3.5 It also finalises the repeated assertion to Members and Officers that this regulation has been repealed, which was one of the main presentation points to Members in opposing the Officers' report of 10 March 2015.
- 3.6 Officers have emphasised their opinion that the head restraint is a passenger safety critical feature in a vehicle. Officers are not persuaded that this view is diluted in any way what-so-ever by the argument that head restraints are not an MOT inspection item or that private cars can have them removed if the owner wishes.
- 3.7 The inspection methods of licensed vehicles by Officers, and the relevance of individual Officers' qualifications have been brought into question. Officers are competent to a level of inspection of head restraints to recognise a head restraint which is deformed, damaged, and notably different from the other head restraints in the vehicle or has exposed parts. These would fail an inspection under Councils powers to inspect licensed vehicles.
- 3.8 The author of this report is satisfied that all of the Officers involved in such vehicle inspections, or decision making, have appropriate qualifications and experience for the role.
- 3.9 An unsafe head restraint may also result in a criminal prosecution under UK national legislation to prevent danger being caused, or likely to be caused, to any person. Officers at the Section are competent in securing and assessing evidence and ultimately presenting it to the Courts.
- 3.10 Officers also asked the following questions of Mr Soper :-

**7. Do vehicles produced for the European market fit head restraints as standard which have formed part of a safety testing regime to achieve EWVTA ?**

*Most volume production M1 / N1 category vehicles for the European region will hold an ECWVTA, and head restraints will generally be required for front seating positions (as part of the passive safety equipment) to enable the vehicle to*

*comply with prescribed limit values for crash test dummy neck extension, as determined by the UN ECE R94 crash test.*

**8. Do you consider the head restraint fitted to a vehicle at the point of manufacture to be a critical safety feature in the event of a front or rear vehicle impact?**

*Yes, see question 7*

**9. What are the essential design features of a head restraint?**

*The dimensions and performance are defined within UN ECE R17*

**10. Would the absence of a head restraint potentially increase the risk of injury to the front seat passenger in the event of a front or rear vehicle impact?**

*Yes, see question 7*

**11. Would the absence of a head restraint increase the risk of injury to the rear seat passenger in the event of a front vehicle impact?**

*For this question, I will assume that the absent head restraint will be that of the front seating positions. In this case, the area associated with the absent head restraint may fall within the type approved head impact zone of the rear seat occupant. It is likely that that this area will only be compliant with the head restraint fitted, however this will be vehicle specific and cannot be fully assessed without testing or access to the type approval documentation for individual vehicle types.*

*Ends*

- 3.11 Officers remain satisfied that the Council is being entirely reasonable to take the view that a head restraint is a safety critical item.
- 3.12 Members may recall a part of the debate in respect of 'aftermarket' products, (those replacement parts that are not supplied by the manufacturer of the vehicle) and whether there was available safety testing for such 'aftermarket' parts. The issue being considered here is head restraints and Officers have sought to demonstrate the availability of regulatory testing for 'aftermarket' head restraints.
- 3.13 Members will note that although the testing is not mandatory for aftermarket head restraints, there is regulated approval process in place to enable manufacturers to demonstrate the safety values and conformity of their product.
- 3.14 Members have been informed that this product has been approved in other local Authorities. Direct contact with Officers in those areas reveals that this application is the first decision on which a more detailed approach to public safety was taken. One Authority left it to the trade to decide and did not consider it a licensing issue as such.

- 3.15 Their general approach has been to consider an application as an advertising issue, although two Authorities have included conditions, which are attached at **Appendix 2 and 3**.
- 3.16 Members will note that condition 5, 6 and 11 (**Appendix 2**), in particular, deal with the same issue of public safety. The difference between the approach of some Authorities and this Authority is that Officers have asked the applicant and representatives to demonstrate they are meeting such a requirements.
- 3.17 Members will note the clear parallel between condition 11 (Wakefield) at **Appendix 2**, condition 5, 6 and 11 (York) at **Appendix 3** and this Council's existing licensing condition applicable to all licensed Private Hire and Hackney Carriage vehicles which is at **Appendix 4**.
- 3.18 In order to adopt a uniform approach to the matter it is suggested that Members may wish to impose the similar defining conditions as proposed in **Appendix 5**.

**12. Can you explain what Regulation 25 is?**

*UN ECE R25 is a regulation that concerns the approval of head restraint devices at a component level, whether or not they are incorporated in vehicle seats. The applicant for an approval under this regulation shall be submitted by the holder of the trade name or mark of the seat or the head restraint or by his accredited representative. The regulation specifies various test requirements and product markings. The test requirements include dimensional limits and values for energy dissipation. Whilst this regulation is not one of the regulatory acts required for ECWVTA, the United Kingdom is a signatory to it, and components holding an approval to it are recognised by the executive agencies of the department for transport.*

**13. Does EC Regulation 25 negate the requirements of Regulation 17 to achieve EWVTA?**

*No, ECWVTA requires approval to ECE R17 which covers the seating components and their installation into a vehicle type (see question 4). The technical content of ECE R17 that is applicable to head restraints is the same as ECE R25*

**14. What are the differences between Regulation 17 and Regulation 25?**

*ECE R17 is part of a vehicle type approval requirement and covers the installation and performance of seats and restraints in a vehicle type. ECE R25 is a stand-alone regulation that allows head restraints to be approved at a component level. See question 4 – Because ECE R17 encompasses seat strength and installation into a vehicle type, there are additional tests to evaluate these areas.*

**15. In your opinion could such an 'after-market' head restraint, that has not undertaken and achieved appropriate testing in line with existing EU Reg 17 or EC Regulation 25, potentially reduce the passenger safety factors designed into the original structure of the seat and head restraint when it achieved EWVTA?**

*Unless a head restraint has been assessed and tested to the requirements of ECE R17 or ECE R25 then its compliance to dimensional specifications and energy dissipation properties are unknown. Therefore, it may potentially have an adverse effect on a vehicle occupant in a crash event.*

Approval to either of the regulations also places conformity of production obligations on the manufacturer, to ensure that the components placed on the market are the same as those tested and approved.

**16. Can ‘aftermarket’ head restraints be tested to the same or equivalent level of safety conformity which is described in any EU legislation? If so, please state the Regulations and append them to your report?**

Yes, the purpose of ECE R25 is to allow such components be approved to the same level as required for ECWVTA

**17. Can you describe the ways in which such testing can be undertaken?**

*See ECE R25 and question 12*

**18. What is the cost of that testing?**

The cost of obtaining a type approval varies, depending on the test installation and number of seat types required. The costs are generally comprised of the following activities:

- Approval authority fees (VCA witness and certification)  
(Explanatory note by Officers - £90 per hour – this is a statutory fee and may take several hours)
- Cost to conduct the tests (technical service, such as Millbrook)  
(Explanatory note by Officers – This is destructive testing and may need the supply of more than one head restraint or seat of similar construction to that which the screen is to be fitted)
- Documentation  
(Explanatory note by Officers – Completed personally by the applicant or a consultant on their behalf)
- Test parts & logistics  
(Explanatory note by Officers – Dependent on the number of tests undertaken on that product and a particular seat – in the region of £2,000 to £3,000 per completed testing)

**19. How many accredited agencies or organisations are there in the UK who can undertake such testing which are recognised by the VCA and VOSA?**

*The approval authority in the UK is the VCA (vehicle certification agency). The VCA are an executive agency of the UK department for transport. Their role is to witness the test work and to issue the approval certificate. The VCA do not have their own test facilities, but will witness the tests and assessments when conducted at technical services whose facilities have been appraised as compliant and competent. Millbrook Proving Ground is one of these technical services.*

**20. If successfully tested to an acceptable level of safety described in EU legislation would that be a 'one-off' test to cover all model of vehicles or would there need to be a separate test for it to be fitted to other models of vehicles to attain the same safety assurances.**

*ECE R25 defines the concept of a "type" to which the head restraint can be approved for use in. The type is defined as :*

- the lines and internal dimensions of the bodywork constituting the passenger compartment*
- the types and dimensions of the seats*
- type and dimensions of head-restraint attachment and of the relevant parts of the vehicle structure in the case of head restraint directly anchored to the vehicle structure*

*Therefore, it is not possible to approve the restraint to cover all models of vehicles.*

**21. If a product was successful in such testing what is the importance of conformity of production standards?**

*Prior to issuing any type approval, the approval authority will require evidence of conformity of production. This is generally in the form of certification to ISO9001 for the manufacturer, with additional evidence of control plans specific to the product in question and / or an audit.*

**22. How might this be achieved, particularly if the product was imported from outside of the EU or the product manufacturer was to change?**

*Imported products would have to meet the conformity of productions requirements required of them by the approval authority, and the VCA do have overseas offices to support such activity. If the manufacturer were to change, then the approval would have to be extended or withdrawn and replaced to reflect the change.*

**23. If a head restraint has an image screen fitted into the rear of it, does this present any potential danger to the rear seat passenger in the event of collision?**

*Fitment of such devices is not unusual. Assuming it meets the he requirements of, or is approved to, either ECE R17 or R25 then the potential for danger is minimised. The purpose of the testing called up by these regulations is to ensure*

*that the presence of a head restraint is not a danger to vehicle occupants, and considers installation, sharp edges, roughness and energy dissipation of a headform impacting the device (it is struck with a pendulum having a head diameter of 165 mm, a mass of 6.8 kg, at a speed of 24.1 km/h and deceleration values may not exceed prescribed limits).*

**24. Are there any Regulations in respect of such screens in vehicles, particularly in respect of passenger impact?**

*As discussed, ECE R17 and / or R25 are applicable*

A certificate of EU conformity has been presented to the Council by Mr Crake and has been previously explained to Members, however, for the removal of any misunderstanding the following question was posed:-

**25. Can you explain exactly what the attached certificate of conformity relates to?**

*The subject certificate is from a test laboratory confirming that the Taxi LED Advertising Player (LteTOPrraxi009, Taxi007, with WIFI) meets the requirements of Article 1 0.5 of R&T IE Directive 1999/5/EC. This Directive establishes a regulatory framework for the placing on the market, free movement and putting into service in the Community of radio equipment and telecommunications terminal equipment. The directive is concerned with the electro-magnetic compatibility of the component and the vehicle.*

**26. The removal of a head restraint after EWVTA does not affect the original EWVTA.**

*This statement is not strictly true. Removal of a head restraint does invalidate the ECWVTA, however UK National legislation does not require that registered vehicles comply fully with their type approved specification. Once registered vehicles should comply with the regulations contained in the Road Vehicles Construction and Use Statutory Instrument No. 1986 No. 1078. This statutory instrument does not require the fitment of type approved head restraints.*

*However, regulation 100 of this statutory instrument requires the following :*

**F-AVOIDANCE OF DANGER**

**Maintenance and use of vehicle so as not to be a danger, etc**

*100. (1) A motor vehicle, every trailer drawn thereby and all parts and accessories of such vehicle and trailer shall at all times be in such condition, and the number of passengers carried by such vehicle or trailer, the manner in which any passengers are carried in or on such vehicle or trailer, and the weight, distribution, packing and adjustment of the load of such vehicle or trailer shall at all times be such, that no danger is caused or is likely to be caused to any person in or on the vehicle or trailer or on a road.*

*It is possible that the above regulation could be used as the basis for a prosecution should a serious injury occur that can be attributable to the fitment of*

*a non approved component, however I am not aware of any relevant case law to support this.*

*Ends*

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

4.1.1 The information contained in this report has not been the subject of consultation with the trade as it is a business opportunity and an individual proprietor's choice and not a regulatory issue such as Members normally see.

### **4.2 Equality and Diversity / Cohesion and Integration**

4.2.1 There are no significant issues. The principle of the advertising content will already have been approved in accordance with ASA standards but the distinction should be drawn that advertising or other media that highlights international or religious tensions would not be acceptable. Such matters could lead to disputes between passengers or drivers or be offensive to a passenger. Similarly it might be considered in appropriate to have an involvement with local politics (as opposed to Council policies).

### **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:

4.3.4 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 Significant costs have been incurred in obtaining expert opinion and the setting of an inspection fee will help address the real cost of continued Officer involvement

#### **4.5 Legal Implications, Access to Information and Call In**

4.5.1 There have been repeated assertions that UN ECE Reg 17 is no longer applicable by the parties associated to the applicant. Despite repeated requests for documentation from different Officers, to demonstrate this, there has been no information forthcoming. Officers and legal opinion are satisfied that UN ECE Reg 17 is applied to the testing of head restraints to achieve EWVTA.

4.5.2 Officers are further satisfied that UN ECE Reg 25 is an equivalent form of testing for an aftermarket head restraint.

4.5.3 Members are informed that there has been an indication that a decision not favourable to the applicant or other parties may be subject to Judicial Review. That point has been considered by legal Officers when overviewing this report.

#### **4.6 Risk Management**

4.6.1 Officers are concerned that unless there are auditable control measure in place to ensure continued compliance to the integrity of the vehicle's safety design that there could be a safety risk to the public and potential legal risk to the Council. It is not considered to be a minor issue in the arena of whiplash injuries and a light touch approach to the potential risk is not, in the view of Officers, the correct approach in considering this issue.

### **5 Conclusions**



5.1 The primary purpose of the head restraint is to reduce the risk of serious injury and Members need to evaluate the associated risks, if any, prior to recommending approval of the head restraint and display screen equipment in licensed vehicle to the Executive.

## **6 Recommendations**

6.1 Members, in the first instance, decide whether or not they consider a head restraint to be a safety critical item in a licensed passenger vehicle.

6.2 If so, that Members then consider if in this case it is considered appropriate or otherwise to move away from the existing licensing condition which requires all licensed vehicles to retain the original vehicle safety accreditation achieved under European Whole Vehicle Type Approval (EWVTA).

6.3 If Members determine to retain that condition they should determine whether the approved UN ECE Reg. 25 is a proportionate requirement to determine the product safety of the aftermarket head restraint and meets its licensing obligations in respect of head restraints enabling a safe variation to the policy when appropriate.

6.4 That Members consider the proposed Conditions in respect of the product and the licensed vehicle proprietor and make an appropriate recommendation to the Executive.

## **7 Background documents<sup>1</sup>**

UN ECE Regulation 17

UN ECE Regulation 25

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<sup>1</sup> 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.

## WAKEFIELD METROPOLITAN DISTRICT COUNCIL

### HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

#### ADDITIONAL CONDITIONS FOR ADVERTISING INTERNALLY WITHIN THE VEHICLE VIA SCREENS - DIGITAL MEDIA TECHNOLOGY

Hackney carriage and private hire vehicles may install in-vehicle digital media technology to be used for advertising purposes and/or live feed material subject to compliance with these conditions.

1. Only systems approved in writing by the Council can be installed. Systems currently approved by the Council are:-  
DigiCab Media.
2. All broadcast material must comply with the OFCOM Broadcasting Code.
3. All films/video material must be classified by the BBFC as U or exempted from classification.
4. The only live feed material must be national or local news and weather.
5. All equipment must comply with Construction and Use Regulations.
6. All equipment must be designed, constructed and installed in such a way and in such material as to present no danger to passengers, or the driver. This includes impact with the equipment in the event of an accident, or damage through vandalism, misuse, or wear and tear.
7. The equipment must not interfere with any other safety, control, electrical, computer, navigation, satellite or radio system in the vehicle.
8. The intensity of any screen should not be visually intrusive or dazzling. The screen must not obstruct the passenger's view of any meter.
9. Any screen shall be no larger than 15".
10. Screens may be installed in the driver and front passenger seat headrests, or in other suitable locations as agreed by the Council.
11. The installation must not weaken the structure or any other component part of the vehicle or interfere with the integrity of the manufacturers' original equipment.
12. The design must be discreet and complement the interior furnishing of the vehicle.
13. The system must include safeguards to maintain the integrity of the system and prevent the display of unapproved material.
14. Passengers must be able to turn the screen off.
15. All equipment must be protected from the elements, secure from tampering and located so as to have no impact on the seating and luggage capacity of the vehicle.

## CITY OF YORK COUNCIL

**ADVERTISING INTERNALLY WITHIN THE VEHICLE VIA TV SCREENS**  
**(DIGITAL MEDIA TECHNOLOGY)**

Hackney carriage and private hire vehicles may install in-vehicle digital media technology to be used for advertising purposes and/or live feed material. To use this form of technology for advertising purposes and/or live feed material it must comply with the following conditions:

1. Digital media systems must be approved by the licensing authority before they are installed.
2. All broadcast material must comply with the OFCOM Broadcasting Code.
3. All films/video material must be classified by the BBFC as U or exempt from classification.
4. The only live feed material that can be shown is national/local news and weather.
5. All equipment must comply with any legislative requirements in respect of Construction and Use Regulations and other legislation.
6. All equipment must be designed, constructed and installed in such a way and in such material as to present no danger to passengers or driver, including from impact with the equipment in the event of an accident or damage from the electrical integrity being breached through vandalism, misuse or wear and tear.
7. The equipment must not interfere with any other safety, control, electrical, computer, navigation, satellite or radio system in the vehicle.
8. The intensity of any screen should not be such as to be visually intrusive or dazzling. The position of the screen must not obstruct the passenger's view of the meter and the visibility of the screen to following vehicles should be minimal.
9. Any screen shall be no larger than 15".
10. All equipment must be installed in the driver's compartment and should not be visible from the driver position. The screen may be installed in the driver and front passenger seat headrests, or other suitable location agreed by the licensing authority.
11. The installation must not be such as to weaken the structure or any other component part of the vehicle or interfere with the integrity of the manufacturer's original equipment.
12. The design must be discreet and complement the interior furnishing of the vehicle.
13. The system must include safeguards to maintain the integrity of the system and prevent the display of unapproved material.
14. Passengers must be able to control the volume level, including turning the sound off. The driver must have overall control of the volume to make sure it does not distract them while driving. The sound should be automatically muted when the intercom is operated.
15. Passengers must be able to turn the screen off.

16. A notice should be displayed within prominent view and physical reach of all passenger seats giving instructions to passengers as to adjusting the volume and turning the screen off. The notice shall be in a suitable format and design for visually impaired people and visible in low light conditions.
17. The mute/volume control must be accessible from the nearside and offside passenger seats.
18. Once activated the mute should continue without further activation by the passenger until the passenger leaves the vehicle.
19. All equipment must be protected from the elements, secure from tampering and located such as to have no impact on the seating and luggage carrying capacity of the vehicle.

**POLICY IN RESPECT OF ATTACHED TO THE GRANT OF A PRIVATE HIRE VEHICLE**

**Policy Statement**

Private Hire vehicles are licensed for the purpose of carrying the fare paying public on journeys pre-booked through a licensed Operator.

The licensed vehicle must be safe and comfortable in every aspect of its design. Modern manufactured vehicles meet these requirements, but not all of them are suitable for the commercial carriage of a wide variety of passengers and luggage. Additionally, some vehicle designs are not appropriate for people who may suffer from a wide range of spinal, visual, ambulant or mobility disabilities.

In simple terms getting into and out of the vehicle must be as easy as possible and take into account the widest range of disabilities, as well as able bodied people. Inside the vehicle the seat space must be adequate to accommodate at least four passengers. Comfortable travelling is required by all passengers, but for people with some disabilities it is an absolute necessity. Accordingly, Leeds City Council will not ordinarily licence sports editions of vehicles or those vehicles designed for 'off roading' or having the characteristics of such a vehicle.

It is not acceptable that public transport vehicles are adapted in any way to replicate sports vehicles with adjustments to the suspension, wheels, body fittings or exhaust or engine performance enhancements or the seating.

Set out below are the pre-conditions to the consideration of the grant of a Private Hire vehicle licence.

Additionally, once licensed, a Private Hire vehicle must continue to meet these standard pre-conditions.

**Standard Conditions Attached to the Grant of a Private Hire Vehicle**

1. At the point of licensing a vehicle must hold full 'Whole Vehicle Type European Approval'.
2. Will be a manufacturers standard right hand drive vehicle (excluding vehicles of London cab type) with a minimum nominal engine capacity of 1400cc. The colour shall be a manufacturers standard colour for the particular model.
3. Fitted with a least four doors, two to the nearside and two to the offside.
4. Of at least the four-wheel type and carrying a suitable spare wheel which meets the legal requirements.
5. Maintained in the original form of the manufacturers specification, design or appearance of the vehicle.

6. A vehicle licence will not normally be granted if it has sustained accident damage resulting in structural distortion beyond the accepted limits of the vehicle manufacturer, or, has been disposed of under an insurance salvage agreement (categories A, B, C and D,)
7. Must be capable of being inspected to a MOT standard or an appropriate equivalent test to the satisfaction of the Council.

**LEEDS CITY COUNCIL****PROPOSED CONDITIONS FOR ADVERTISING WITHIN LICENSED HACKNEY CARRIAGE OR PRIVATE HIRE VEHICLES VIA DIGITAL ADVERTISING SCREENS EITHER FITTED IN HEAD RESTRAINTS OR 'STAND ALONE'**

Hackney carriage and private hire vehicles may install in-vehicle digital media technology to be used for advertising purposes and/or live feed material subject to compliance with these conditions.

1. Only systems approved in writing by the Council can be installed.
2. Each Proprietors application to install such equipment in a licensed vehicle must be accompanied by an application form prescribed by the Council with the inspection fee, as set out in the Section's schedule of charges.
3. Produce a certificate from the supplier which demonstrates that the product has attained conformity to the principles of UN ECE Reg 25 or was part of the vehicle range which achieved EWVTA with UN ECE Reg 17. (The latter would probably not apply to standard manufactured vehicles for the European market).
4. Produce a certificate of conformity to demonstrate the product meets the requirements of Article 1 0.5 of R&T IE Directive 1999/5/EC ( Electrical Devices).
5. Explanatory documentation supplied by the media company detailing the safety advice in respect of head restraint positioning and emphasising the primary purpose of the head restraint is public safety and not entertainment.
6. A certificate of vehicle insurance which clearly identifies that the insurer is aware of the precise details of the product and that cover of all third party risks is not affected in any event or alternatively, proof of a policy of insurance from the company supplying the product in respect of third party risks.
7. The installation must not weaken the structure or any other component part of the vehicle or interfere with the integrity of the manufacturers' original equipment.
8. All equipment must comply with Construction and Use Regulations.
9. All equipment must be designed, constructed and installed in such a way and in such material as to present no danger to passengers, or the driver. This includes impact with the equipment in the event of an accident, or damage through vandalism, misuse, or wear and tear.

10. The equipment must not interfere with any other safety, control, electrical, computer, navigation, satellite or radio system in the vehicle.
11. Screens may be installed in the driver and front passenger seat headrests, or in other suitable locations as agreed by the Council, subject to inspection.
12. Any screen shall be no larger than 15”.
13. The intensity of any screen should not be visually intrusive or dazzling. The screen must not obstruct the passenger’s view of any meter or be visible to the driver of the vehicle.
14. The design must be discreet and complement the interior furnishing of the vehicle.
15. The system must include safeguards to maintain the integrity of the system and prevent the display of unapproved material.
16. Passengers must be able to turn the screen off.
17. All equipment must be protected from the elements, secure from tampering and located so as to have no impact on the seating and luggage capacity of the vehicle.
18. Notify the Council of a change of manufacturer of the head restraint or digital display screen and produce the required UN ECE certificates of conformity as required in the application process.

#### **Advertising or broadcast media**

1. All broadcast material must comply with the OFCOM Broadcasting Code.
2. All films/video material must be classified by the BBFC as U or exempted from classification.
3. The only live feed material must be national or local news and weather.
4. All displayed media must adhere to Councils Corporate advertising policy which includes:
  - Advertising Agency Standards cover all forms of advertising but nevertheless even conformity to their standards would not necessarily



mean that the adverts or footage appearing on the display screens are necessarily those that you would want to see in the presence of business partners or children and there has to be an understanding of this on the part of the media company.

- The Council's values are not undermined and any advertising that is prohibited by the Council or is not supporting of Council priorities or values would not be permitted (e.g. advertising by pay day loan companies would not be permitted as they are in conflict with the principles of the Council's poverty agenda)
- Not advertising alcohol, tobacco or sexual entertainment venues.
- Not advertising political issues
- Supply to the Council, upon demand, digital recording copies of any advertising media.

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**Report of Dale Askham Director Leeds Private Hire Drivers  
Association  
Report to Licensing Committee  
Date 8<sup>th</sup> April 2015**

**Subject: Report of Head of Licensing and Registration  
Report to Licensing Committee  
Date: 9 September 2014**

**A proposed policy – digital advertising screens in licensed vehicles**

**REPORT OF DALE ASKHAM, DIRECTOR OF LEEDS PRIVATE HIRE DRIVERS ASSOCIATION  
TO LICENSING COMMITTEE. DATE: 8<sup>TH</sup> APRIL 2015**

**Subject:**

Report of Head of Licensing and Registration

Report(s) to Licensing Committee

Date: 9 September 2014 & 10<sup>th</sup> March 2015

Subject: A proposed policy – digital advertising screens in licensed vehicles

I feel it appropriate to write to you with regard to the above report and the subsequent report presented by Head of Licensing and Registration at the licensing meeting which was held on the 10<sup>th</sup> March 2015.

Having read both the initial report as above and the second report as presented on the 10<sup>th</sup> March 2015 and listened to Mr. Broster's explanation to committee Members of documentation contained within that report I was amazed at the blatant attempts to mislead Members of the Committee with documentation and so called 'facts' that quite frankly were without foundation or merit. Members must have realised by now that this is the second time Mr. Broster has submitted a report that was flawed and misleading.

Mr. Broster is the most senior officer in the Taxi & Private Hire Licensing department and as such Members of the Licensing Committee rely heavily on his reports to assist them in making objective, legally correct decisions.

Twice members have, based on the information contained within the two reports, along with explanations given by Mr. Broster left themselves open to question and potentially left the Council open to Legal Challenge on a number of issues because of one senior officers lack of ability to guide the members with true and legal facts.

I would like to point out the following FACTS to you so that any decisions made by Members at the next meeting on April 8<sup>th</sup> 2015 can be made based on information that is accurate, legal and based on FACT, and not flawed personal opinion from someone who has twice presented erroneous information to Committee Members.

Below are questions we posed to the **UK Vehicle Certification Agency**, along with their answers re EU/UK Headrest regulations/conformity.

**VCA is the designated UK Vehicle Type Approval authority and with more than 30 years experience supports industry by providing internationally recognised testing and certification for vehicles, their systems and components. A leading Management Systems Certification body, VCA also provides certification to ISO 9001, ISO TS 16949, ISO 14001, OHSAS 18001, Acorn (a phased approach to environmental certification), EMAS and ISO 50001 (Energy Management Certification).**

E/ECE/324/Rev.1/Add.16/Rev.5-E/ECE/TRANS/505/Rev.1/Add.16/Rev.5 is a current E.U. Directive that refers to various aspects of Vehicle/Equipment conformity and regulations, but is guidance for Vehicle Manufacturers 'at point of manufacture' and 'does not apply to aftermarket products'.

**(1) From:** Mike Protheroe

**Sent:** 16 March 2015 15:21

**To:** 'phssltd@outlook.com'

**Subject:** RE: LEG-2015-0067-ENQUIRY - REPLY- VEHICLE HEAD RESTRAINTS

6. If an 'aftermarket' headrest was fitted to a vehicle would it compromise the 'Whole Vehicle' type approval?

>>> It would if it were fitted prior to registration / initial entry into service of the vehicle. After the vehicle has

6. If an 'aftermarket' headrest was fitted to a vehicle would it compromise the 'Whole Vehicle' type approval?

>>> It would if it were fitted prior to registration / initial entry into service of the vehicle.

4. Are there any 'whole product' UK/EU Certificates of Conformity for either manufacturer or aftermarket headrests?

>>> See 1 above, there used to be a directive 78/932/EEC (now repealed) which allowed approval of a head restraint,

5. is a vehicle headrest a 'testable' item under UK MOT testing requirements

>>> No

See attached VEHICLE & OPERATOR SERVICES AGENCY 'The MOT Inspection Manual.' There is no section relating to Headrest testing or requirements.

1. **FACT.** There is no legal requirement to have ANY headrest installed in a vehicle. There is a legal requirement for modern vehicles to have a headrest fitted **AT THE POINT OF MANUFACTURE**, but vehicle owners can remove headrest after purchase and if they chose to do so can either run the vehicle without any headrests or install an aftermarket headrest, which may or may not have a DVD screen fitted.

2. **FACT.** There are no testing or inspection requirements on headrests, either manufacturer or aftermarket, within the UK or EU.

3. **FACT.** The headrest, if fitted, is not part of an MOT inspection.

4. Does the removal or fitting of a headrest compromise the 'Whole Vehicle Type Approval' obtained by manufacturers?

**FACT.**

5. Does any member of staff or management at Taxi & Private Hire Licensing department hold ANY Qualifications which would qualify them to either inspect or pass a professional opinion on Headrest?

**FACT.**

As there is no EU or UK legislation governing the installation/use/conformity of headrest it is impossible for VLE staff to carry out any inspection as there are no parameters by which to measure such inspections. None of the staff or management at Taxi & Private Hire Licensing hold any relevant qualifications that would qualify them to inspect or pass any professional opinion on any component of not only the Digi-Cab Media Headrest but any headrest whatsoever. Mr. Broster is effectively, (purely in an effort to create an additional revenue stream for his department), trying to 'Re-Invent the Wheel'

PLEASE SEE BELOW ANSWER TO QUESTION 2 OF OUR F.O.I REQUEST 13424. WHICH WAS MADE TO LEEDS CITY COUNCIL:

- > Information Request - 2
- > Details and copies of any:
  - >
  - > a. 'Risk Assessment(s)' including the name and qualifications of the
    - > person/organisation that carried out the relevant 'Risk Assessment'
    - > with reference to the claimed 'Passenger/Public Safety' risks
    - > contained within various passages of the report, specifically items
      - > 3.4, 3.6,
      - > 3.9 and 4.6.
  - >
  - > Response:
    - >
    - > No written risk assessments have been conducted by the Council but the
      - > qualifications of the Officers who considered the proposals for the
        - > fitting of aftermarket head restraints are:
          - >
          - > Desmond Broster: Section Head -Apprentice trained motor vehicle
            - > mechanic - City and Guilds Parts 1 and 2 (final) qualification.
            - > Additionally he has 12 years' experience in technical policy
            - > development as an Authorised Officer within Leeds City Council. He was
            - > previously an Authorised Vehicle Examiner in the West Yorkshire Police.
          - >
          - > Martino DePlacido: Operations Manager - Apprentice trained motor
            - > vehicle mechanic - HNC Motor vehicles Technicians final qualification.
            - > Trained to Ministry of Transport vehicle inspection standard.
            - > Additionally, he has 34 years' experience as a Vehicle Examiner and 23
            - > years as an Authorised Officer of the Council.
          - >
          - > Philip Hatch: Principle Vehicle Inspector - Apprentice trained motor
            - > vehicle mechanic - HNC Motor vehicles Technicians final qualification.
            - > Trained to Ministry of Transport vehicle inspection standard.
            - > Additionally, he has 34 years' experience as a Vehicle Examiner and 19
            - > years as an Authorised Officer of the Council.

**None of the above qualifications are commensurate with the holder(s) being qualified to carry out inspections on Headrests.** VOSA, MOT TESTING FACILITIES, EU and UK VEHICLE CERTIFICATION TESTING FACILITIES ARE NOT QUALIFIED, AND DO NOT CARRY OUT INSPECTIONS ON HEADRESTS.

**6. Can a driver obtain Hire & Reward Vehicle Insurance for a vehicle that is fitted with a Digital Headrest?**

**FACT. YES**

SEE ATTACHED E-MAIL (3) FROM ACORN INSURANCE.

If there is a claim regarding the headrests then where would liability for that claim lie?

**FACT.** Any claim would be covered by either the Product or Public Liability insurance held by Digi-Cab Media.

**FACT.** There would be no liability to Leeds City Council.

Mr. Broster is wanting to charge an administration and inspection fee for the headrests once installed.

**ITEM 4.6 RISK MANAGEMENT. 4.6.1 Mr. Broster's report to Licensing Committee 9<sup>th</sup> September 2014.** Mr. Broster by his own admission to members at the Licensing Meeting of the 10<sup>th</sup> March 2015, he himself cannot cope with his work load and the demands of the licensing department,

Despite having 'ring fenced revenue,' the department is constantly under staffed, not only in the administration department but enforcement as well, as stated to the members by Mr. Broster at the meeting of 10<sup>th</sup> March 2015 .

We have attached copy e-mail sent to the Private Hire and Hackney Carriage industries by Taxi & Private Hire Licensing on 1<sup>st</sup> October 2014 clearly identifying staff shortages. Nothing has effectively changed since this e-mail some 6 months ago. There are still staff shortages, constant sickness absence and ineffective management of holiday rostering, resulting in sub standard service to clients of this department.

I was personally at Torre Road recently when, at 2.15pm VLE Officers were standing at the doors to the public offices stopping anyone entering as there was no room inside. Officers were turning away drivers and telling them to come back the following day as there wasn't enough staff to process their applications. Torre Road Offices officially close at 3.30pm. I had personally queued for over 3 hours before I was eventually seen by an administration officer.

Why is Mr. Broster insisting on inspecting these headrests when the Taxi & Private Hire Licensing DO NOT inspect any other aftermarket equipment in licensed vehicles, i.e. 2 way radios / data heads / PDA's etc?

The current procedures for vehicle inspections are:

1. The vehicle is booked in for inspection
2. The vehicle is inspected
3. Once the vehicle has passed the inspection it then returns to VLE on either a Monday, Wednesday or Friday to have the vehicle livery fitted (stickers)
4. Once the vehicle is stickered up then the vehicle is ready to work as a licensed vehicle in Leeds
5. The driver then takes the vehicle to the operator he is going to work for and then and only then is he issued with his radio and data head to fit to his car

**PLEASE SEE ATTACHED LICENSING INSPECTION REPORT, HACKNEY CARRIGE / PRIVATE HIRE / CONTRACT VEHICLE FORM USED BY THE VLE INSPECTORS.** This is used by Taxi and Private Hire Vehicle Inspectors when inspecting the vehicles.

You will notice that there is no requirement to check any aftermarket equipment on the said inspection report form. PLEASE TAKE PARTICULAR NOTICE OF THE WORDING \*NOTE\*

Mr. Broster wants his department to carry out 'inspections' which have no national or E.U. parameters to measure them by, but of a greater concern, neither Mr. Broster or any of his staff have any qualifications which, if such a test existed would qualify them to carry out such 'tests'

We note in the report presented by Mr. Broster on the 10<sup>th</sup> March 2015 he again raises the subject of INSURANCE. Mr. Broster included in his report a copy of an e-mail from Blue Drop Services which contained the following statement: "I can confirm that with regards to insuring the headrests with a digital screen, I can confirm that they can be covered under the modifications section of a vehicle as long as the headrests have passed as I have been told they have been by John at PHSS, if this is not the case then unfortunately I will not be covering any vehicle that has the head rests in".

1. I was present when John Askham made that call to Blue Drop Services and categorically state that John Askham did not make that statement. What John actually said was "the headrest carries an EU Certificate of Conformity for the electrical components" We note with concern that Mr. Broster fails to include in his report a copy of his e-mail to Blue Drop Services or state exactly what question(s) he asked Blue Drop Services to illicit such a response.
2. Blue Drop Services are an **Insurance Broker** and merely sell Insurance products for a number of Insurance Companies. They do not formulate or write any 'terms and conditions' of insurance and neither do they underwrite any Insurance Policies.
3. There are no EU Safety Checks so the statement by Blue Drop re such EU checks is irrelevant.

We find the statement from Blue Drop Services particularly confusing when only a few weeks prior to being contacted by Mr. Broster we asked them if they would insure vehicles with Digital Headrests fitted and received the attached reply from them.

It is even more confusing and somewhat ironic that Blue Drop Services, an **Insurance Broker** are an 'Agent' for both Acorn and Haven **Insurance Companies**.

Both of these **Insurance Companies** are members of the same Group and underwrite their own 'Term and Conditions' for their policies. Last year they underwrote in excess of £100 million of Hire and Reward insurance and have stated quite categorically that they **'WILL INSURE VEHICLES WHICH ARE MODIFIED TO CARRY AFTER-MARKET HEADRESTS'**.

This clearly contradicts the statement from Blue Drop Services.

Mr. Broster has gone to great lengths, used an enormous amount of Council time, resources and expense to produce two reports that are not only flawed but contain erroneous and misleading information.

Putting all this aside, we would respectfully suggest that the resolution to this whole sorry saga lies with the simple application of Common Sense.

We would pose the following questions to Members:

1. Does the installation of Digital Headrests in Licensed Vehicles place any liability on the Council?
2. Are there any benefits, (real or potential) to the Council, Citizens and Visitors to Leeds, Licensed Vehicle Operators and Drivers?

We refer you to the report of 9<sup>th</sup> September 2014.

### **Item 3 MAIN ISSUES.**

3.2 In respect of Private hire vehicles it is an entirely new proposal but one that would be supported by the trade. Members are advised that primary legislation concerns the ability to distinguish the appearance between a taxi and private hire vehicle but that piece of legislation would not extend to precluding Private Hire vehicles having similar



**The removal of the following conditions as detailed in the Report dated 9<sup>th</sup> September 2014**

3.7 This should be overcome on a case by case basis with the supplier of the equipment and the proprietor of the licensed vehicle supplying individual accredited statements of conformity for each vehicle in which it is proposed to fit media screens. The minimum standard would be a technical approval declaration from the vehicle manufacturer.

3.7 The minimum requirement for licensing purposes would be for the licensed vehicle proprietor to produce appropriate documentation from the insurer approving the detail of the modification. Members are reminded that it is a statutory requirement for the Council to ensure that insurance is in place for that licensed vehicle.

3.8 In respect of the third point. This is the unmanageable issue for the Council if the application is approved. However, the driver can take responsibility for this and can be accountable in respect of any third party injury claims. The documentation supplied by the media company to the driver should detail the readily available safety advice in respect of head restraint positioning and remind the driver that the primary purpose of the head restraint is public safety and not supplying entertainment.

3.9 With the emphasis placed on passenger safety an application, approval and inspection process would need to be in place for the vehicle after fitting and prior to final approval. After fitting, the Council would be presented with a letter of conformity and a disclaimer absolving the Council of any resultant liability and a pre-agreed inspection sheet. The liability will then rest firmly between the supplier of the screens and the licensed proprietor.

3.12 If the application included changes to the construction of the manufacturer's head restraint fitted to the vehicle at the time of its European design approval then the same issues would have to be satisfied by the driver before approval for fitting.

**4.6 Risk Management**

4.6.1 Although there are perceived risks the control measures proposed are considered sufficient to absolve the Council of any liability. It is also important to control what type of technology drivers might introduce into their vehicles and so there would need to be a formal application process and quick inspection of the vehicle so that an accurate record can be maintained of which vehicles have approved screens in them. There is a resource implication which can be adequately managed and catered for with **an administration and inspection fee.**

**ATTACHMENT 1**

**Report of Dale Askham Director Leeds Private Hire Drivers  
Association  
Report to Licensing Committee  
Date 8<sup>th</sup> April 2015**

**Subject: Report of Head of Licensing and Registration  
Report to Licensing Committee  
Date: 9 September 2014  
A proposed policy – digital advertising screens in licensed vehicles**

RE: LEG-2015-0067-ENQUIRY - REPLY- VEHICLE HEAD RESTRAINTS

Mike Protheroe (Mike.Protheroe@vca.gov.uk)

[Add to contacts](#)

16.05/2015

To: phesidj@outlook.com

Dear John,

In answer to your questions;

1. Is there any UK/EU legal requirement to have a headrest fitted in a motor vehicle?  
>>> There are no requirements to fit head restraints. However, where they are fitted there are requirements set out in UNECE Regulation 17.08,  
[see: http://www.unece.org/fileadmin/DATA/transport/travels/100/10029regs/00pages/17017r01a.pdf](http://www.unece.org/fileadmin/DATA/transport/travels/100/10029regs/00pages/17017r01a.pdf)
2. Are there any UK/EU Legal specifications for either a manufacturers or an aftermarket headrest?  
>>> See 1 above, also there are no requirements for aftermarket head restraints
3. Are there any legally recognised UK/EU tests for either manufacturer or aftermarket headrests?  
>>> See 1 above, these provisions could be applied to tests on aftermarket head restraints and reported as such
4. Are there any 'whole product' UK/EU Certificates of Conformity for either manufacturer or aftermarket headrests?  
>>> See 1 above, there used to be a directive 78/932/EEC (now repealed) which allowed approval of a head restraint, but this is no longer possible
5. Is a vehicle headrest a 'testable' item under UK MOT testing requirements  
>>> No
6. If an 'aftermarket' headrest was fitted to a vehicle would it compromise the 'Whole Vehicle' type approval?  
>>> It would if it were fitted prior to registration / initial entry into service of the vehicle. After the vehicle has entered into service the type approval will not be affected.

I hope this helps. However, I must point out that what I have written only represents an opinion, as neither VCA or the Department for Transport may interpret the law as this is the sole prerogative of the courts, I would also suggest that you seek your own independent legal advice.

Regards

Mike

Mike Protheroe

Vehicle Certification Agency

e-mail: [mike.protheroe@vca.gov.uk](mailto:mike.protheroe@vca.gov.uk)

Tel: + 44 (0)117 952 4113

Fax: + 44 (0)117 952 4146

**ATTACHMENT 2**

**Report of Dale Askham Director Leeds Private Hire Drivers  
Association  
Report to Licensing Committee  
Date 8<sup>th</sup> April 2015**

**Subject: Report of Head of Licensing and Registration  
Report to Licensing Committee  
Date: 9 September 2014  
A proposed policy – digital advertising screens in licensed vehicles**

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# Vehicle and Operator Services Agency

## The MOT Inspection Manual

### Private Passenger and Light Commercial Vehicle Testing

#### **Preface**

This Manual sets out the testing procedures and standards for those who carry out statutory testing of cars, private buses and light commercial vehicles.

Vehicle owners may also find the Manual useful because it details the inspection to which vehicles are subjected and the reasons why an MOT test certificate could be refused.

This Manual was based on the domestic regulations in force at the time of publication and complies with Annex II to Directive 2009/40/EC as amended by Commission Directive 2010/48/EU. Future changes in the law, or in vehicle or equipment design may result in variations to the test requirements.

General information regarding documentation and the responsibilities of those involved in testing are contained in the Vehicle and Operator Services Agency MOT Testing Guide.

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<b>Introduction</b>	<b>Abbreviations and Definitions</b>	<b>Section 3</b>	<b>Brakes</b>
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	<b>How to Use this Manual</b>	3.2	Hand Operated Brake Control Valves
	<b>Recommended Inspection Routine</b>	3.3	Service Brake Control
<b>Section 1</b>	<b>Lamps, Reflectors and Electrical Equipment</b>	3.4	Anti-Lock Braking and Electronic Stability Control Systems
1.1	Front and Rear Position Lamps, End Outline Marker Lamps, Registration Plate Lamps	3.5	Mechanical Brake Components
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1.9	Electrical Wiring and Battery	4.2	Road Wheels
<b>Section 2</b>	<b>Steering and Suspension</b>	<b>Section 5</b>	<b>Seat Belts &amp; Supplementary Restraint Systems (SRS)</b>
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**ATTACHMENT 3**

**Report of Dale Askham Director Leeds Private Hire Drivers  
Association  
Report to Licensing Committee  
Date 8<sup>th</sup> April 2015**

**Subject: Report of Head of Licensing and Registration  
Report to Licensing Committee  
Date: 9 September 2014  
A proposed policy – digital advertising screens in licensed vehicles**



From: **Daniel Ward** (Daniel@acorninsure.com) This sender is in your contact list.

Sent: 06 March 2015 17:13:14

To: 'phss ltd' (phssltd@outlook.com)

Hi John,

As per our conversations, I can confirm that Motorcade Leeds / Acorn Insurance are able to cover vehicles which are modified to carry after-market digital headrests. As per our insurance providers policy handbook, if the headrests themselves are the cause of the accident, then they are not able to claim on the vehicle insurance. However, any claim caused by the product would normally be covered under a third party Product Liability or Public Liability policy, dependant on the level of cover by said policy. It's also worth noting that under our providers policy wording, the items themselves wont be repaired or replaced in the event of an accident.

However, with the above in mind, we would still cover the vehicle.

Regards,

Daniel


*Daniel Ward B.A. Hons.*

*Business Development Manager*

*Acorn Insurance Group*

0113 8871 006

07808038245

 [Daniel@acorninsure.com](mailto:Daniel@acorninsure.com)

Offices in: Liverpool, Birmingham, Manchester, Leeds, London City, Stratford, Crystal Palace, Uxbridge and Wandsworth.

**ATTACHMENT 4**

**Report of Dale Askham Director Leeds Private Hire Drivers  
Association  
Report to Licensing Committee  
Date 8<sup>th</sup> April 2015**

**Subject: Report of Head of Licensing and Registration  
Report to Licensing Committee  
Date: 9 September 2014  
A proposed policy – digital advertising screens in licensed vehicles**

From: taxi.privatehire@leeds.gov.uk

Subject: Taxi & Private Hire Licensing: Visits to the Licensing Office

Date: Wed, 1 Oct 2014 14:55:56 +0000

To:

Dear All

I emailed you all some time ago to make you aware of the implementation of 3 yearly DBS checks. This process is now underway and you will receive a letter explaining what you need to do when your DBS check becomes due.

Until you receive this letter you do not need to do anything however further information on the process can be found by visiting [www.leeds.gov.uk/taxidbs](http://www.leeds.gov.uk/taxidbs)

Unfortunately since the policy was approved by Licensing Committee, one member of the Licensing Office staff has left the Section on a year-long career break and one applicant appointed to the position of Licensing Officer has decided not to take up the position.

This leaves us two members of staff down on the counter, with annual leave and sickness still to account for, and an increased work load processing the additional DBS checks.

I am therefore writing to make you aware of, and apologise in advance for any delays you may experience when visiting the office.

We are in the midst of a recruitment exercise and hope to be in a position of appointing at least one new member of staff in the coming weeks. We will of course keep you informed in due course.

Thank you all for your patience, support and understanding.

Kate

---

Kate Coldwell  
Service Development Officer  
Taxi & Private Hire Licensing  
Leeds City Council  
Tel: 0113 3781570  
Email: [taxiprivatehire.licensing@leeds.gov.uk](mailto:taxiprivatehire.licensing@leeds.gov.uk)  
[www.leeds.gov.uk/taxis](http://www.leeds.gov.uk/taxis)

Please note: I work Wednesday/ Thursday/ Friday only

DEFECT SHEET No.....

**LICENSING INSPECTION REPORT  
HACKNEY CARRIAGE / PRIVATE HIRE / CONTRACT VEHICLE**

Vehicle Reg. \	Plate No.	Make and Model.	
Chassis No.		Date of Reg.	Engine Size. †
Name.....		Colour.	Mileage.

Note: This inspection is carried out in accordance with Leeds City Council Licensing Conditions and V.O.S.A. MOT testing standards.

Items to be tested	PASS	FAIL		PASS	FAIL
<b>Interior checks</b>			Speed limiter (if applicable)		
Seats and Seatbelts			Steering & power steering components		
Warning lamps			Suspension components		
Switches (position lamp, headlamp, hazards)			<b>Under vehicle checks</b>		
View to front, wipers & washers			Steering including power steering		
Brake controls, servo operation			Driveshafts		
Steering wheel & column			Suspension, shock absorbers		
Doors, mirrors horn			Wheel bearings		
Speedometer, driver controls (class 5 only)			Wheels & tyres		
Exterior checks			Braking system & mechanical components		
Registration plates			Exhaust system		
Lamps, registration plate lamps			Fuel system & fuel tank		
Indicators, hazards			Structure, general vehicle condition		
Headlamps & aim			Emissions		
Stop lamps, fog lamps, reflectors			<b>Brake Test</b>		
Wheels, tyres			Axle 1 N/S		
Shock absorbers			Axle 1 O/S		
Mirrors, wiper blades, fuel tank cap			Axle 2 N/S		
Glazing (class 5 only)			Axle 2 O/S		
Doors, boot lid, loading doors, bonnet			Axle 1 N/S		
Towbars			Park N/S		
General condition of body			Park O/S		
<b>Under bonnet checks</b>			Imbalance		
Vehicle structure			<b>Licensing Conditions</b>		
Braking systems			General licensing conditions		
Exhaust systems, fuel system					

Seatbelt installation check required	Yes	No
Number of seat checked	Pass	Fail
Remarks		

MOT Cert no.	
Mileage.	
Issue date.	
Expiry date.	

(Office Use Only)

Result:  Pass     Fail    ( Licence Suspended)     Pass and Advised

Signed

examiner

Date.

**ATTACHMENT 5a**

**Report of Dale Askham Director Leeds Private Hire Drivers  
Association  
Report to Licensing Committee  
Date 8<sup>th</sup> April 2015**

**Subject: Report of Head of Licensing and Registration  
Report to Licensing Committee  
Date: 9 September 2014  
A proposed policy – digital advertising screens in licensed vehicles**

Report on the Requirements of the Licensing Committee of Leeds City Council in respect of an Application for the fitting of digicam information systems into Private Hire Vehicles specifically with regard to the rear facing of seat head rests

We have been asked by Mr John Askham of The Leeds Private Hire Association and Mr Darren Craick regarding the installation of digicam equipment to make comment on the granting of permission to install the equipment in private hire vehicles operational within the City of Leeds Licensing District.

It is common ground that the Committee is in favour of the use of the technology and sees the benefits as a public information system.

However the requirement for the fitting of the equipment to undergo a series of either certification or testing our clients believe these are irrational and disproportionate.

We have been asked to make an initial comment for the next meeting of the Committee in April. My colleague David Walters will make a representation on behalf of both of our instructing organisations.

I myself as well as being qualified as a solicitor I also hold a BSc in Health Safety & Environmental Management and as such will comment on not only the legal consequences of the decision to ask for further conditions to be attached to the installation of the equipment but also as I see the possible failings in the initial report made to the Committee by its own Officers in particular Mr Des Broster as head of the Vehicle Licensing Unit.

With respect to Mr Broster it would appear to me to be that the initial view is that the equipment has to be wrong and is looking at the equipment in its singularity rather than taking it into account as a piece of equipment that is contained within the vehicle passenger cabin and has failed to take into account the ergonomics of the vehicle cabin as well as the availability and the fitting of a number of safety systems already within the passenger cabin.

This is with respect a very dangerous precedent to take it means a possible problem is identified and then supporting evidence is cherry-picked to enhance what is sometimes a single opinion.

We also note from the earlier meetings that this cherry-picking of information resulted in the wrong European Directive being referred to. In addition in that particular information there were two links provided for to enhance the report and we cannot see the relevance

of an instruction to the Malaysian car manufacturers on the construction of vehicles has any relevance to the question in hand.

For the benefit of the members of the Committee we attach a copy of the present Regulation which is Regulation (EC)661/2009 and in addition specifically Regulation number 25 which is the actual provision concerning the approval of head restraints.

We could add that although the use of the Directives may be of help we think it would have been appropriate to mention that the purpose of the directives is for the harmonisation of vehicle manufacture throughout the European Union. The original directive that Mr Broster referred to was one that came into effect in 1974 and was to ensure that at the very least the basic vehicle type of construction would be used throughout the European Union not only for health and safety reasons but also for competition between car manufacturers to develop better systems over a period of time.

This was the reason why the new directive came into being and we are sure the members will be in agreement with this, a vehicle of 20 years ago was a totally different machine to the vehicle in use now.

The development of, and the use of vehicle testing, construction and design is a highly complex area that is subject to a huge amount of capital investment not only by the European Union and the Department of Transport and VOSA in the UK was also vehicle manufacturers.

We would also say that the use of single systems as Mr Broster refers to in his report into changeability between vehicles in this case, he cited Skoda and VW is actually more common than Mr Broster indicated.

This is because most manufacturers will use interchangeable parts made to a cosmetic design but utilising the same design that can be found throughout a number of vehicles using the EC directive.

Again this then raises the problem that where the Council officers have recommended that our clients produce evidence from manufacturers. With respect those manufacturers may be a number of the same people or different individual manufacturers supplying motor manufacturers.

For this reason it is virtually impossible for individuals to go back to every vehicle manufacturer, ask that manufacturer who supplied that particular part and if that particular part had been tested to the requirements of the EC directive.



With respect we would say that because the vehicles have been certified for use within the European Union and are effectively on the road then we should take it as read that those vehicles meet those requirements.

Therefore the question is, we would submit, that the provisions under Section 48 of the Local Government (Miscellaneous Provisions) Act (1)(iv) are the ones that we should be actually considering in this matter. In addition there is also the consideration of Section 47 Licensing of Hackney Carriages (1) and whereby the Council may apply such conditions as the District Council may consider to be reasonably necessary.

We would submit that therefore the Council should consider the requirements for the implementation of the previous conditions of the Committee for consent of vehicle manufacturers etc as being either reasonable or unreasonable.

We would submit that because of the present regulations the attempt to attach further regulations particularly in light of the complex area of vehicle manufacturer and design is unreasonable.

A document from DaCoTa which details the design theory behind restraint systems in vehicles as well as an overall view of vehicle safety as seen within the European Union.

Again you will see that it is an extremely complex area of Design and Law and with respect is far beyond the scope of a local vehicle licensing unit.

We also attach a copy of an email that our clients obtained from the VCA specifically asking about the requirements for head rests.

As you will note currently there are no requirements for head rests to be inspected within the MOT test or neither is there any specific requirements in respect of after vehicle sales.

We would submit that the reason for this is that there has been no evidence to show that there have been any injuries caused or in the alternative that the installation of the equipment which our clients propose has created any safety issues.

We do not say there will never be any instances but what we are saying is that on current knowledge as provided by the VCA and the European Union the concerns raised in Mr Broster's report are minimal.

We note that within the actual report the area of concern is specifically centred on the actual head rest and the passengers facing them.

It only takes into account what appears to be a frontal impact and doesn't take into account the multitude of various impacts that any vehicle could be submitted to.

Furthermore it makes no mention of the use of restraint systems such as seatbelts which are specifically designed to prevent passengers from impacting with the front seats irrespective of whether our clients' equipment is fitted or not.

This lack of application to take into account the ergonomics of the whole of the vehicle compartment does actually lead are important observations and that is the equipment that is already fitted within the vehicles themselves.

There is no mention in Mr Broster's report of the effects of the rear middle passenger going forward and impacting with equipment already approved and fitted in the front of the vehicle.

This is somewhat contradictory in that the Council has already approved the fitting of such things as radios, meters, presumably Sat Nav equipment and even as shown from that attached report of Mr Broster on 17/11/2010, cameras in cabs, a copy of that report is attached for your benefit.

The committee has made the requirement that the conditions have to be met before the equipment is fitted. In that a Council or any legislative body binds itself by its own decisions.

We would submit that the decision regarding the fitting of this particular type of equipment extends to all retrofitted equipment to any vehicle licensed by the Council.

The net effect of this could be that once the earlier decision has been made that any vehicles with retrofitted equipment that does not follow the criteria laid down in the earlier decision are illegal and should be taken off the road now.

This obviously would create a huge logistical and financial problem not only for the operators of licensed vehicles now but also possibility of financial claims being made against the Council. We would also add that all the Council's own vehicles fitted with retrofitted equipment could also be technically illegal under the Council's own provisions.

This is with respect one of the dangers of relying on an opinion rather than properly conducted evidence based research which with respect to Mr Broster was lacking in his report.

Finally we note there is an issue regarding vehicle insurance.

Our clients have obtained confirmation from insurance companies that the vehicles can be insured with our equipment and with respect that is all that is required under the regulations in that the insurers will have taken into account a number of issues that they do not usually disclose and have been content enough to insure the vehicles. That makes therefore the additional requirements for insurance with respect a bit of a nonsense.

We hope that this clarifies some of the issues of what could be an extremely complex area of law and vehicle design and one which we think has become over complicated by the Council officers applying an opinion as to the fitting of our clients' equipment rather than producing evidence based research.

Yours faithfully

**Martin Gaffney LLB (Hons) BSc Shem**

**ATTACHMENT 5b**

**Report of Dale Askham Director Leeds Private Hire Drivers  
Association  
Report to Licensing Committee  
Date 8<sup>th</sup> April 2015**

**Subject: Report of Head of Licensing and Registration  
Report to Licensing Committee  
Date: 9 September 2014  
A proposed policy – digital advertising screens in licensed vehicles**



Originator: D. P. Broster  
Tel: 0113 2143376

<b>Report of : Desmond P. Broster</b>
<b>Meeting: with Mr Andrew Pennock, Amber Cars, Armley, Leeds</b>
<b>Date of meeting: 17.11.10</b>

**SUBJECT: EXCEPTION TO COUNCIL POLICY – CAMERAS IN CABS**

<b>This Report is for;</b>			
Discussion Only <input type="checkbox"/>	Information Only <input checked="" type="checkbox"/>	Advice/consideration prior to taking a decision or reporting to a Committee <input type="checkbox"/>	
<b>Decision to be taken by:</b>			
Full Council <input type="checkbox"/>	Corporate Governance and Audit Committee <input type="checkbox"/>		
Executive Board <input type="checkbox"/>	Standards Committee <input type="checkbox"/>		
An Area Committee <input type="checkbox"/>	Member Management Committee <input type="checkbox"/>		
A Regulatory Committee <input type="checkbox"/>	A Director using delegated authority <input checked="" type="checkbox"/>		

**Executive Summary**

A application by Mr Andrew Pennock, Amber Cars, Armley Leeds to have an exception made to the Council's Policy in respect of cameras in cabs.

## **1.0 Purpose Of This Report**

1.1 To outline the background and technical information to explain why a decision has been made which is an exception to the guidance and policy document in respect of "Cameras in Cabs".

## **2.0 Background Information**

2.1 Taxi & Private Hire Licensing Section has a guidance and policy document setting out the background and guidance on the Council considerations in setting out its policy to drivers of Hackney Carriage and Private Hire vehicles.

2.2 The Policy itself describes to manufacturers of 'in car' cameras how their product can be placed on the Council's approved list of appropriate cameras to be used in licensed vehicles and how the Council satisfies itself by formal inspection of the equipment.

2.3 Finally, the document contains the Council's conditions and of particular note is the condition concerning the functions of the camera.

## **3.0 Main Issues**

3.1 The Policy mentioned at 2.0 was intended for those cameras that were inward facing and gaining a full view of the passengers. The purpose of the camera is driver safety and there are safeguards in the Policy to ensure that any images obtained can not be downloaded, improperly displayed as photographs or on web-sites.

3.2 Amber Cars have applied for an exception to this Policy and have produced for examination a driving recording system camera, the main function of which is to record images outside of the vehicle, but which still has capacity to store images inside the vehicle.

3.3 The Proprietor of Amber Cars wishes to install this camera in 139 of his vehicles to combat escalating vehicle insurance issues and errant driver behaviour. One major insurer has withdrawn from the Private Hire and Hackney vehicle insurance market and insurance quotes have escalated significantly.

3.4 The Proprietor of Amber cars, Mr Andy Pennock considers that this camera would be beneficial to his service delivery in correcting driver behaviour and be reassuring to insurance companies that they will have available first hand evidence of incidents outside the vehicle. He considers these could also be financial benefits by considerably reducing his insurance costs.

3.5 The camera has a rolling short term memory but has an impact sensor which reacts to a collision and then saves the proceeding 30 seconds of video evidence and continues to record after the impact.

3.6 This is downloaded to a digital recording card contained within the body of the camera. That information can then be downloaded into the Operator's computer system to view the driver behaviour before the incident and the actual impact itself. The port in the camera into which the SDS card is placed, is covered over with a "use once" type personalised adhesive cover manufactured for Amber Cars, which, if removed does not re-stick. This is to discourage inappropriate driver access and if there was such access it could then be detected.

- 3.7 The camera has a rear view mirror in it that this is disabled using the soft wear options inside of the camera. Additionally the camera is placed between the windscreen and the rear view mirror obstructing the use of that lens.
- 3.8 All of the vehicles owned by Amber Cars are subject to a rigorous weekly inspection and these cameras would form part of his fleet inspection policy to make sure that they had not been interfered with. Mr Pennock is prepared to use a similar standard of sticker to cover up the lens of the rear view part of the camera as an additional method of ensuring it does not view inside of the vehicle.
- 3.9 The system has benefits for the Trade, not only in discouraging poor driver behaviour but it also has a GPS link which records the speed of the vehicle at the time of impact and the exact location.
- 3.10 The point was made by Mr Pennock that most types of PDA's used in Hackney Carriages throughout the country are contained in hands free holders and these PDA's can be placed in camera mode and used to record events in taxi's. Councils would be very hard pressed to come up with any control measures for such misuse. The point being made is that he intends to be fully compliant and wishes to work with the Council and introduce industry improvements.

#### **4.0 Implications For Council Policy And Governance**

- 4.1 Had this camera only had a view forward lens it would not have come into conflict with the Council's Policy but its capability brings it into conflict with the Council's Policy document. Exceptions can be made to such policies and decisions must be proportionate to the purpose of the Policy and include measures that can be put in place to step outside of the Policy. In this particular case the applicant has demonstrated sound reasons for wanting to include such equipment in his fleet of vehicles and has volunteered steps to satisfy Officers of his best intentions.

#### **5.0 Legal And Resource Implications**

- 5.1 There are no resource implications and the Council Enforcement Team would simply conduct spot checks on equipment within Amber Cars Private Hire vehicle.

#### **6.0 Conclusions**

- 6.1 That an exception to the Policy can safely and justifiably be made and that there are potential benefits to the industry, the public of Leeds by improving driver behaviour and potential cost savings on escalating insurance prices that the Council might consider appropriate to a city business in this economic climate.

#### **7.0 Recommendations**

- 7.1 That an exception to the Policy be approved and that the matter be formally recorded as a delegated decision notification to ensure a clear audit trail of the process.

#### **8.0 Background Papers**

- 8.1 The following background papers have been used when making a decision:

- Guidance & Policy document (Cameras in cabs)

- Private Hire vehicle conditions
- E-mails regarding application and process



## APPROVED SUPPLIERS OF HACKNEY CARRIAGE TARIFF METERS

Approved Hackney Carriage Tariff meters may only be fitted to a licensed vehicle by an approved supplier. The Council has to be assured that the supplier has a full technical and working knowledge of the meter and the requirements of the Council in terms of its security (anti-tampering), tariff setting and correct fitting and sealing to the licensed vehicle.

On application, in writing, to become an approved supplier and be added to the 'Approved List' consultation will take place with the Taxi Associations and their views considered.

Any appropriate expenses incurred during the consultation and approval process will be borne by the applicant.

Company	Approved By	Date
BRIAN BEGBIE – EURO MK11 01943 863514	Desmond . P. Broster Section Head	08.06.05
STANLEY. P. AUTOS - DIGITAX 0113 2721947	Desmond. P. Broster Section Head	08.06.05
MANN & OVERTON - LTI 0113 3888600	Desmond. P. Broster Section Head	08.06.05
MR. ALI ASGHAR - HALDA 07815 091140	Desmond. P. Broster Section Head	17.08.05
MR. DAVE ODDIE - DIGITAX 0113 2564069	Desmond. P. Broster Section Head	17.08.05
AB SYSTEM SOLUTIONS LTD - HALDA 07908 110919	Desmond. P. Broster Section Head	31.05.06
MR. ROGER PROCTOR - HALDA 07884 378751	Desmond. P. Broster Section Head	31.05.06
MR. TAHIR RIAZ – VIKING, EURO & DIGITAX TAXIMETERS 07931 723299 07971 394050	Phillip Hatch Senior Vehicle Examiner	11.12.09
MR C A ANDERSON – TAXIMETER SERVICES MOBILE 07710 728778 01482 501370	Phillip Hatch Senior Vehicle Examiner	29.06.12

**Leeds City Council does not endorse the suppliers products, service or reputation and the Council shall not be held liable for any loss howsoever caused arising out of or in anyway connected with the use of the suppliers products or service.**

**ATTACHMENT 6**

**Report of Dale Askham Director Leeds Private Hire Drivers  
Association  
Report to Licensing Committee  
Date 8<sup>th</sup> April 2015**

**Subject: Report of Head of Licensing and Registration  
Report to Licensing Committee  
Date: 9 September 2014  
A proposed policy – digital advertising screens in licensed vehicles**

**From:** Taxi @ Bluedrop [mailto:taxi@bluedropservices.co.uk]  
**Sent:** 17 November 2014 09:52  
**To:** Broster, Desmond  
**Subject:** Head Rests

Des,

Please accept my apologies for the delay in this email I have been away for a week since we spoke.

I can confirm that with regards to insuring the head rests with a digital screen, I can confirm that they can be covered under the modifications section of a vehicle as long as the head rests have passed EU safety checks as I have been told they have been by John at PHSS, if this is not the case then unfortunately I will not be covering any vehicle that has the head rests in.

Regards

[Redacted]

Tel:

Email: [taxi@bluedropservices.co.uk](mailto:taxi@bluedropservices.co.uk)  
Visit us: [www.bluedrop.co.uk](http://www.bluedrop.co.uk)

DR P

796is 76entled Road, London  
Arundale, DL12 7RB

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**ATTACHMENT 7**

**Report of Dale Askham Director Leeds Private Hire Drivers  
Association  
Report to Licensing Committee  
Date 8<sup>th</sup> April 2015**

**Subject: Report of Head of Licensing and Registration  
Report to Licensing Committee  
Date: 9 September 2014  
A proposed policy – digital advertising screens in licensed vehicles**

Taxi @ Bluedrop

2017-08-01

24/10/2014

Photos  
To: phssitd@outlook.com

John,

Further to our telephone conversation after speaking to various insurers this morning I can confirm that all would be happy to offer quotations for vehicle with head rests that have screens attached, this will have to notified under the vehicle modifications section of any quote, but just to confirm there is no problem with obtaining insurance.

**Christopher Parker**

Tel: 0845 548 0163

Email: [chris.parker@bluedrop.co.uk](mailto:chris.parker@bluedrop.co.uk)

Visit us: [www.bluedrop.co.uk](http://www.bluedrop.co.uk)

796b Edenfield Road, Norden  
Rochdale, OL12 7RB

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**LICENSING COMMITTEE WORK PROGRAMME 2014/15 - LAST UPDATED 30/4/15 (JG)**

ITEM	DESCRIPTION	NOTES	TYPE OF ITEM
<b>Items Currently Unscheduled</b>			
<b>Digital Advertising Screens in Licensed Vehicles</b>	To receive an update on the issue of Digital Advertising Screens in Licensed vehicles	D Broster	DP

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
	<b>Meeting date: 10<sup>th</sup> JUNE 2014. HELD PH operator Conditions Review, HC Proprietors Suitability Assessment, 3Year Driver Licensing, Convictions Criteria and De Regulations</b>		
	<b>Meeting date: 8<sup>th</sup> JULY 2014. HELD: BID UPDATE (Late Night Economy), Strong Alcohol Schemes, Otley Cumulative Impact Policy</b>		
	<b>Meeting date: 5<sup>th</sup> AUGUST 2014. HELD: Entertainment Licensing Section Activity update, TPHL Section Activity Update, TPHL Equality Monitoring, Leeds Festival 2014</b>		
	<b>Meeting date: 9<sup>th</sup> SEPTEMBER 2014. HELD: WYP Presentation, Hackney Carriage Proprietors – Appropriate Suitability Assessment, Digital Advertising Screens In Licensed Vehicles</b>		
	<b>Meeting date: 7<sup>th</sup> OCTOBER 2014 HELD: Inner East and Inner West Local Licensing guidance, Shisha Smoking and Smoke Free Legislation Update Report, Outcomes of the Licensing Committee Working Group (WG) and Information and Consultation Report – Additional Licensing Safeguarding Proposals</b>		
	<b>Meeting date: 11<sup>th</sup> NOVEMBER 2014 CANCELLED</b>		
	<b>Meeting date: 9<sup>TH</sup> DECEMBER 2014 - HELD: Wi-Fi in licensed vehicles, Additional Licensing Safeguarding Proposals – Improving Criminal Intelligence Lengths with WYP, Unmet demand survey – Hackney Carriages, Yearly DBS Checking,</b>		

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

LICENSING COMMITTEE WORK PROGRAMME 2014/15 - LAST UPDATED 30/4/15 (JG)

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
Leeds Festival de brief, City Centre CIP Review, Entertainment Licensing Review of Fees and Charges and Fixed Odds Betting Terminals			
Meeting date: 6 <sup>TH</sup> JANUARY 2015 - CANCELLED			
Meeting date: 10 <sup>TH</sup> FEBRUARY 2015 – HELD: Hackney Carriage Proprietors – Appropriate Suitability Assessment, Safeguarding measures – ‘fit and proper’ assessment for HCD, HCVP, PHD, PHVP, PHO licences, TPHL Equality Monitoring Report, TPHL Section Activity Update, Health Guidance, Entertainment Licensing Section Activity Update.			
Meeting date: 10 <sup>TH</sup> MARCH 2015 - HELD: WYP Presentation, Legal Highs - the partnership approach to tackling the use of Legal High's in Leeds', Taxi and Private Hire - Prosecutions outcomes and Digital Advertising Screens in Licensed Vehicles.			
Meeting date: WEDNESDAY 8 <sup>TH</sup> APRIL 2015 - HELD: Shisha Smoking and Smoke Free Legislation Update Report, Gambling Act Policy Review, Leeds Festival Update.			
Meeting date: WEDNESDAY 6 <sup>TH</sup> MAY 2015 - CANCELLED			
Meeting date: FRIDAY 22 <sup>ND</sup> MAY 2015 – PROPOSED ADDITIONAL MEETING			
Governance arrangements	To approve the governance arrangements for the Licensing Committee and its sub committees for the 2015/16 Municipal Year	M O'Shea	
Digital Advertising Screens in Licensed Vehicles.	To review the “in principle approval of the Policy in respect of Digital Advertising Screens in Licensed Vehicles	D Broster	DP



LICENSING COMMITTEE WORK PROGRAMME 2014/15 - LAST UPDATED 30/4/15 (JG)

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
<b>Meeting date: 9<sup>th</sup> JUNE 2015</b>			
<b>Response to Gambling Commission Consultation on the Guidance to Licensing Authorities</b>	To receive a report which provides a response to the Gambling Commission Consultation on the Guidance to Licensing Authorities	S Holder	B
<b>Meeting date: 7<sup>th</sup> JULY 2015</b>			
<b>Shisha Smoking and Smoke Free Legislation Update Report,</b>	To receive an update on Shisha Smoking and Smoke free legislation	R McCormack	B
<b>Safeguarding Measures – Fit and Proper Assessment for Taxi drivers and operators</b>	To receive report setting out proposals for the introduction of a new policy dealing with Safeguarding Measures – Fit and Proper Assessment for taxi drivers and operators	D Broster	DP
<b>Licensing Reform – Taxi and Private Hire (Including Wheel Chair Accessible taxis)</b>	To receive an update on Licensing Reform – Taxi and Private Hire	D Broster	DP
<b>Meeting date: 11<sup>th</sup> AUGUST 2015</b>			

**LICENSING COMMITTEE WORK PROGRAMME 2014/15 - LAST UPDATED 30/4/15 (JG)**

<b>ITEM</b>	<b>DESCRIPTION</b>	<b>Officer</b>	<b>TYPE OF ITEM</b>
<b>Private Hire Vehicles Bonnet Stickers</b>	Following consultation with the trade to receive a report on Private Hire Vehicles Bonnet Stickers	D Broster	DP
<b>Leeds Festival 2015</b>	To receive an update on the Leeds Festival 2015	S Holder	B