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**NOTICE OF MEETING**  
**LICENSING AND SAFETY COMMITTEE**  
**01 FEBRUARY 2007**

**TO: ALL MEMBERS OF THE LICENSING AND SAFETY COMMITTEE**

You are requested to attend a meeting of the above Committee on **01 February 2007 at 7.30 pm** in the Council Chamber, Fourth Floor, Easthampstead House, Bracknell, to transact the business set out in the attached agenda.

Alison Sanders  
Director of Corporate Services

**Members of the Licensing and Safety Committee**

Councillor Kendall (Chairman)  
Councillor Mrs Ryder (Vice-Chairman)

Councillors Adams, Baily, Mrs Barnard, Beadsley, Browne, Brunel-Walker, Finch, Leake, Mihell, Osborne, Piasecki, Sargeant and Thompson

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- 3 Use the stairs not the lifts**
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**THE LICENSING AND SAFETY COMMITTEE**  
**01 February 2007 (7.30 pm)**  
**Council Chamber, Fourth Floor, Easthampstead House, Bracknell.**

**AGENDA**

	<b>Page No</b>
<b>1. APOLOGIES FOR ABSENCE</b>	
<b>2. DECLARATIONS OF INTEREST</b> Members are required to declare any personal or prejudicial interests and the nature of that interest, in respect of any matter to be considered at this meeting.	
<b>3. MINUTES AND MATTERS ARISING</b> To approve as a correct record the minutes of the meeting of 5 October 2006.	1 - 2
<b>4. URGENT ITEMS OF BUSINESS</b> Any other items which, pursuant to Section 100B(4)(b) of the Local Government Act 1972, the Chairman decides are urgent.	
<b>5. HEALTH AND SAFETY LAW ENFORCEMENT PLAN 2007-08</b> (Director of Environment and Leisure)	3 - 10
<b>6. COMPETENCY OF TAXI AND PRIVATE HIRE VEHICLE DRIVERS</b> (Director of Environment and Leisure)	11 - 14
<b>7. NEIGHBOUR NOTIFICATION</b> (Director of Environment and Leisure)	15 - 18
<b>8. REVIEW OF FEES AND CHARGES 2007-2008</b> (Director of Environment and Leisure)	19 - 28
<b>9. STRETCHED LIMOUSINES</b> (Director of Environment and Leisure)	29 - 30
<b>10. REVIEW OF LICENSING POLICY</b> (Director of Environment and Leisure)	31 - 32
<b>11. TAXI AND PRIVATE HIRE VEHICLE LICENSING – BEST PRACTICE GUIDANCE</b> (Director of Environment and Leisure)	33 - 36
<b>12. GAMBLING ACT 2005 – PRESENT POSITION</b> (Director of Environment and Leisure)	37 - 38
<b>13. ANIMAL WELFARE ACT 2006</b> (Director of Environment and Leisure)	39 - 40

# Agenda Item 3

## LICENSING AND SAFETY COMMITTEE

Thursday, 5 October 2006

(7.30 pm - 9.15 pm)

**Present:-** Councillors Kendall (Chairman), Adams, Baily, Beadsley, Browne, Finch, Leake, Mihell, Osborne, Sargeant and Thompson

### 13. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Piasecki and Mrs Ryder.

### 14. DECLARATIONS OF INTEREST

There were no declarations of interest.

### 15. MINUTES

**RESOLVED** that the minutes of the meeting of the Licensing and Safety Committee held on 6 July 2006 be approved as a correct record and signed by the Chairman.

### 16. URGENT ITEMS OF BUSINESS

The Chairman gave notice that, pursuant to Section 100B of the Local Government Act 1972, he had agreed to the addition of two items of urgent business to the agenda for the meeting, in respect of the Health and Safety Law Enforcement Plan 2006/2007 and the Age of Licensed Drivers. The Council was required to produce an annual Health & Safety report and for it to be presented to Councillors, and the Age Discrimination Regulations 2006 that came into effect on 1 October 2006 provided for legal action where it was shown that a person had been discriminated against due to age in their employment or application for employment. The Chairman considered that both matters warranted urgent consideration.

### 17. HEALTH AND SAFETY LAW ENFORCEMENT PLAN 2006-07 (URGENT ITEM)

The Committee considered a report from the Assistant Director of Environment and Leisure. The Committee was advised that the Council was required to produce an annual Health and Safety Law Enforcement Plan to meet statutory requirements, and the key priorities were highlighted.

**RESOLVED** that

- i) the Health and Safety Law Enforcement Plan for 2006-07 be adopted; and
- ii) the changed focus to topic inspections, project working and the option of alternative intervention strategies for low-risk businesses to ensure that resources were allocated to areas of greatest risk/impact be noted; and
- iii) the portfolio of Joint Working with the Health and Safety Executive designed to ease the burden on business in the Borough and to meet the Health and Safety Commission (HSC) targets to improve health and safety by 2010 be noted.

## **18. AGE OF LICENSED DRIVER (URGENT ITEM)**

The Committee considered a report from the Director of Environment and Leisure regarding whether a change should be made to the condition which placed restrictions on the age of a person who could hold a licence to drive a hackney carriage or private hire vehicle.

During discussion, the Committee raised concerns that, as it stood, recommendation 2.1 i) would remove both lower and upper age limits as a licensed condition. It was felt that, as the intention was to just remove the upper age limit, this recommendation should be amended to reflect this.

**RESOLVED** that

- i) the upper age restrictions should be removed as a licence condition; and
- ii) officers should prepare a report for the next Committee meeting that would set out competency standards for licensed drivers; and
- iii) proposals for checking those competencies should be part of the licensing process.

## **19. DRAFT STATEMENT OF GAMBLING PRINCIPLES**

The Committee considered a report from the Director of Environment and Leisure. A draft of this report had been presented to the previous meeting. Comments received since then had been incorporated into the consultation document. It was recommended that the report should be put to Full Council on 29 November, as it needed to be published by 31 January 2007.

During discussion, the Committee raised a number of minor alterations to the Statement of Gambling Principles which were noted. Members requested that these changes should be made before the Statement was published.

**RESOLVED** that

- (i) the Chairman of the Licensing and Safety Committee be granted delegated authority to approve further changes prior to the amended draft Statement of Gambling Principles being put forward to Full Council on 29 November 2006 for approval; and
- (ii) the statement be checked by Counsel prior to adoption by Full Council; and
- (iii) the final version of the report be circulated to all members of the Licensing and Safety Committee.

## **20. HACKNEY CARRIAGE FARES**

The Committee considered a report from the Director of Environment and Leisure, which had been presented at the last meeting. It was noted that there had not been any objections or representations made to the advertised tariff charges.

**RESOLVED** that the Hackney Carriage Fares report be noted.

**CHAIRMAN**

## LICENSING AND SAFETY COMMITTEE 1 FEBRUARY 2007

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### HEALTH AND SAFETY LAW ENFORCEMENT PLAN 2007-08 (Director of Environment and Leisure)

#### 1 INTRODUCTION

- 1.1 The Council has responsibility for the enforcement of health and safety in private sector businesses in the Borough. Members will recall approving the Health and Safety Law Enforcement Plan 2006-2007 at the Committee meeting on 4 October 2006. The purpose of this report is to provide members with an opportunity to comment on the draft Health and Safety Enforcement Plan for 2007-2008 prior to the final version the Committee will receive later in the year. The Work Plan for Health and Safety Law Enforcement 2007-2008 (Appendix A) is in the process of being re-drafted and sets out a framework for the Council's plan for health and safety in line with direction from the HSC and the Health and Safety Executive (HSE).
- 1.2 The plan is required to comply with Section 18 of the Health and Safety at Work etc Act 1974 to ensure that national priorities and standards are delivered effectively and consistently at a local level.

#### 2 RECOMMENDATIONS

##### 2.1 That DMT:

- (a) **notes the timescales for the production of the final Health and Safety Law Enforcement Plan 2007-2008; and**
- (b) **comments on the contents of the draft Enforcement Plan (Appendix A).**

#### 3 SUPPORTING INFORMATION

- 3.1 The practice has been to bring a finished document to the Committee for adoption subject to any amendments. The Committee of 4 October 2006 queried the delay in reporting a statutory plan 6 months into the financial year. The delay is caused because of the need to check and verify data that is required to be returned to the Health and Safety Executive. This year to assist and prepare members for receipt of a final document later in the year the committee is being shown a draft Health and Safety Enforcement Plan. On completion after April the full plan will set out the work for 2007-2008 and be accompanied by information providing details of how we have performed in the current financial year.
- 3.2 A key theme of the work plan is to continue to develop targeted health and safety activity by working effectively in partnership with business and the Health and Safety Executive. This will be achieved by working to an agreed portfolio of joint working with the HSE based around 'Fit3' - "Fit for Work, Fit for Life, Fit for Tomorrow". This year's work plan as set out in Appendix A is in the process of being populated with targets and initiatives under 3 main headings which are: protecting consumers, support for local businesses and local partnerships.

- 3.3 As a reminder there are effectively two main regulatory arms, the Health and Safety Executive and the Local Authorities. Within Bracknell Forest enforcement is a function of the Environmental Health and Safety Section. At 1 April 2006 the Borough had 1,334 local businesses where it has the statutory responsibility to enforce the Health and Safety at Work etc Act 1974. This figure will be adjusted in the new financial year to account for the closure and start-up of new businesses.
- 3.4 Progress against the Plan is measured monthly and reported to Members in the Quarterly Operations Reports. As an update the contents of the Health and Safety Law Enforcement Plan for 2006-2007 approved by members on 4 October 2006 is on track for completion by 31 March 2007.
- 3.5 Consultation with stakeholders has been ongoing since the Committee approved the plan for 2006-2007. It has been published on the Borough Council's website and copies have been issued at key locations in the Borough including the Council's libraries and town and parish council offices. To date no representations have made in relation to the plan.

#### **4 IMPACT ASSESSMENT**

- 4.1 There are no direct consequences of the report for any group and no direct community safety implications.

#### **5 STRATEGIC RISK MANAGEMENT ISSUES**

- 5.1 The Plan assumes the full establishment of posts.

#### Background Papers

1. HELA Strategic Plan 2000-2004
2. HSC Strategy for Workplace Health and Safety in Great Britain to 2010 and Beyond – (Securing Health Together – SH2)
3. Health and Safety in Local Authority Enforced Sectors, Section 18. HSC Guidance to Local Authorities (09/01)
3. HELA Circular Number 67/1 (Rev 3) Advice to Local Authorities in Inspection Programmes and an inspection rating system (12/2000)
4. Health and Safety Law Enforcement Plan 2006-07

#### Contact for further information

David Steeds, Head of Environmental Health and Safety - 01344 352530  
[david.steeds@bracknell-forest.gov.uk](mailto:david.steeds@bracknell-forest.gov.uk)

#### Doc ref

Secs\other ctes\L&S\2007\feb\H&S law enforcement plan 2007-08/18.1.07

**HEALTH & SAFETY ENFORCEMENT PLAN  
2007/08**

<b>Protecting Consumers</b>		
<b>Task</b>	<b>Outcome</b>	<b>By when</b>
<b><i>To seek to improve the health and safety standards of workplaces in Bracknell Forest through effective enforcement methods</i></b>	Inspect 110 businesses in Bracknell Forest where we are the enforcing authority for health and safety in accordance with risk aiming to complete 100% of identified high-risk premises and using alternative interventions for other businesses	Mar 08
<b><i>To develop, implement and maintain a Health and Safety Plan</i></b>	Provide encouragement, direction and support to local businesses in achieving higher levels of compliance and standards to enhance the wellbeing of Bracknell Forest residents and visitors Plan to be achieved within existing resources	Draft Action plan by Feb 07. Completed plan by Jul 07
<b><i>Respond to and investigate workplace accidents and reports of poor working practices and conditions</i></b>	To ensure that effective investigations are carried out and to take prompt action to improve conditions and reduce likelihood of injury recurring Examine local trends in accidents reported	Ongoing
<b><i>In partnership with the Health &amp; Safety Executive work towards reducing the number of accidents and ill health that occurs within Bracknell Forest by focusing on priority areas identified local, regional and national level</i></b>	Adapting existing project plans that have been developed by the HSE for campaigns to: <ul style="list-style-type: none"> <li>• Free up officer time from developing campaigns and allow more contact time with businesses</li> <li>• Low cost publicity and support material by use of nationally produced resources and publicity</li> <li>• Impact on the health of the community and the strength of the local economy by targeting areas of identified significant risk (FIT3)</li> </ul>	Ongoing

<b>FIT3 Project Working – Focusing Resources</b>		
<b>Task</b>	<b>Outcome</b>	<b>By when</b>
<b>Ladders – to continue Height Awareness activity from 06/07</b>	Utilise national publicity to advise local businesses. 20 follow-up visits to assess planning of work and selection of equipment	May - Jun 07
<b>Slips and Trips</b>	10 organizations that provide contract cleaning services and ?? hotels Reinforce 'watch your step' message	Sep – Nov 07
<b>Moving Goods Safely- focusing on supply chain distribution</b>	20 focused visits with follow-up evaluation European H&S Week	Oct – Mar 08
<b>Noise at Work( and Smoke Free) in Pubs and Night Clubs (County-wide)</b>	Increase awareness of Regulations (potential for joint working with Licensing Team) 10 clubs and bars live and recorded music Evaluation of impact	TBC
<b>Better Backs</b>	All residential homes targeted with publicity and 15 visits follow-up evaluation Continue 2006 Better Backs work with one major employer	Jan – Feb 08
<b>Builders Merchant (County-wide)</b>	5 highest risk builders merchants	TBC
<b>Tyre and exhaust involving peripatetic roadside work activities (County-wide)</b>	All Tyre and Exhaust premises in Bracknell Forest (6)	TBC
<b>Asbestos - Duty to Manage</b>	Raise at all relevant visits (100) Second Year of campaign. Likely to result in some enforcement to secure improvement	Ongoing Publicity in Sep 07



<b>Support for Local Businesses</b>		
<b>Task</b>	<b>Outcome</b>	<b>By when</b>
<b><i>To facilitate the delivery of health &amp; safety promotional events and material to reflect local needs and national priorities</i></b>	Organise one major workshop during the year Produce one H&S Newsletter for distribution to all Bracknell Forest businesses Prepare 3 H&S press releases Ensure that the full range of information and guidance on priority areas	Ongoing during year and completion by Mar 08
<b><i>To provide support and advice to local businesses to help them improve their health and safety compliance</i></b>	Respond to requests for advice within 2 working days and provide full advice within 14 days Develop a new business advice pack Investigate suitability of Healthy Workplace Award to recognise achievement, encourage and support businesses	Ongoing
<b><i>To maintain up to date health and safety pages on the Council's website</i></b>	Provision of relevant accessible information and links to other key sites	Ongoing
<b><i>To provide training in Risk Assessment (CIEH Accredited course)</i></b>	2 low cost courses aimed at small businesses in Risk Assessment (CIEH Accredited)	Sep 07 and Feb 08

<b>Local Partnerships</b>		
<b>Task</b>	<b>Outcome</b>	<b>By when</b>
<b><i>To support and participate in a joint warranting project with the HSE</i></b>	Work effectively together on agreed regional projects to provide a consistent and improved service	Ongoing during the year
<b><i>Develop links with local businesses to support local priority topics</i></b>	To form partnerships with a variety of organisations to help support the service aims  2 major partnerships (Panasonic and one other)	Mar 08
<b><i>In partnership with the Berkshire PCT and Smoke-Free Berkshire promote Smoke-Free Bracknell Forest</i></b>	Extend the Smoke-Free Bracknell pledge to all businesses ahead on the ban on smoking in public places in July 2007  Support and enforcement as agreed	Mar – end Jun  Jul 07 onwards
<b><i>Development and implementation of a joint project with Trading Standards to support consumer safety.</i></b>	Effective intervention in an area where our safety roles complement each other.	By Mar 08

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<b>Performance Management</b>		
<b>Task</b>	<b>Outcome</b>	<b>By when</b>
<b>To respond within agreed timetables for national performance data for HSE</b>	Full reports annually and in year returns submitted within time frames	As requested
<b>To maintain a quality service in accordance with Section 18 HSC</b>	Implementation of the agreed work plan, ensuring consistency of approach and maximised resources Continue to implement an in-house competency system for appointed officers Identification of staff training needs during annual appraisals Reviewed and up-to-date internal procedures	Ongoing
<b>Complete Quarterly Quality Performance Assessments</b>	Report on quality and consistency of the Commercial Team's work and review as necessary	Quarterly
<b>To undertake benchmarking with the other Berkshire Authorities via the Berkshire Health &amp; Safety Liaison Group and Berkshire EH managers Group</b>	Application of best practice, enabling the service to continually improve and identify areas suitable for collaborative working	Annually
<b>To periodically consult with stakeholders</b>	To seek stakeholders' views on the delivery of our health and safety service, to use the information to improve the service and to further identify local needs	Ongoing

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## LICENSING AND SAFETY COMMITTEE 1 FEBRUARY 2007

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### COMPETENCY OF TAXI AND PRIVATE HIRE VEHICLE DRIVERS (Director of Environment and Leisure)

#### **1 PURPOSE OF DECISION**

- 1.1 The Department for Transport (DfT) has recently released Best Practice Guidance to assist taxi and private hire vehicle licensing authorities in England and Wales. It is for individual licensing authorities to make their own decisions on policy and licensing matters, taking into account local circumstances. However, the proposed procedures outlined in this report will ensure that wherever practicable, Bracknell Forest policy and licence conditions will mirror the recommendations of the DfT Guidance and thereby reduce the likelihood of legal challenge to Council policy and decisions.
- 1.2 In addition as part of the process of adopting best practice, it is proposed that new procedures are introduced to ensure the competency of licensed taxi and private hire vehicle drivers.

#### **2 RECOMMENDATIONS**

##### **2.1 That the Committee agrees that:**

- (a) The minimum age condition for taxi and private hire drivers be removed.**
- (b) Persons who have held full driving licences issued by any EU or EEA state for at least 12 months should be entitled to apply for a taxi or private hire vehicle driver's licence.**
- (c) All applicants who do not hold a UK passport and have not been resident in the UK for the last 5 years be required to obtain a certificate of good conduct or equivalent from the relevant embassy or High Commission.**
- (d) All new applicants for driver licences must take and pass the Driving Standards Agency practical test specifically designed for either:
  - i) Hackney Carriage drivers, to include loading and unloading of wheelchair users or**
  - ii) Private Hire drivers**from 1 April 2007.**
- (e) The medical standard required for insulin-treated diabetic drivers be amended to match the DVLA Group 2 standard for drivers of category C1 vehicles.**

### **3 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS**

#### Borough Solicitor

- 3.1 The relevant legal provisions are contained within the main body of the report.

#### Borough Treasurer

- 3.2 There are no significant financial implications arising from this report.

#### Impact Assessment

- 3.3 There are no implications identified.

#### Strategic Risk Management Issues

- 3.4 There are no strategic risks identified.

#### Other Officers

- 3.5 Not applicable.

### **4 SUPPORTING INFORMATION**

- 4.1 The Age Discrimination Regulations 2006 came into effect on 1 October 2006 and provide for legal action where it is shown that a person has been discriminated against due to age in their employment or application for employment. The Regulations put forward the principle that competency to do a job is paramount and that age should not be a factor in the determination of competency. Whilst the regulations do not at this time directly apply to licence conditions, it can be seen as best practice to apply the principles of the regulations unless there are clear grounds not to.

- 4.2 The recent DfT Guidance contains the following recommendations relevant to this report:

- 4.3 Age Limits – The DfT does not recommend maximum age limits for drivers, provided that regular medical checks are made. They also state that minimum age limits would be inappropriate, and that each applicant should be assessed on their merits. Council policy has recently been amended to remove the upper age limit, but there is a current minimum age limit of 21.

- 4.4 Acceptance of driving licences from other EU/EEA member states – Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 states that a driver must have held a GB DVLA licence for at least 12 months in order to be granted a taxi or private hire driver's licence. This has been amended by the Driving Licences (Community Driving Licence) Regulations 1996 which allow full driving licences issued by EEA states to count towards the qualification for grant of a taxi or private hire driver's licence. A number of states have joined the EU and EEA since 1996, and the DfT has now issued guidance which takes the view that drivers should be eligible to obtain a taxi or private hire driver's licence if they have held a full driving licence issued by any EU/EEA state for at least 12 months. Council policy currently states that applicants must have held a full DVLA licence for at least 2 years prior to

application, so it would seem that this policy needs to be reconsidered in light of this new guidance.

- 4.5 Certificates of Good Conduct – The DfT suggests that a useful way to check the background of applicants from elsewhere in the EU and other overseas countries would be to require the applicant to supply a certificate of good conduct from the relevant embassy or High Commission. This is to help satisfy the Council that an applicant is a 'fit and proper person' as required by the legislation.
- 4.6 Driving Proficiency/Other Training – The DfT do not specifically recommend a form of assessment to ensure the competency of drivers. However, they do specify that the Driving Standards Agency provides a driving assessment specifically designed for taxi and private hire drivers. The Council does not currently test practical driving skills, relying upon age and UK driving experience to determine competency. If the decision of the Committee is to remove the lower age limit, reduce the minimum period to hold a full driving licence to 12 months from 24, or to permit EU drivers who may not have experience on UK roads to be licensed, then members may wish to consider if other competency measures such as the DSA test should be implemented to maintain residents' confidence that a licensed driver is "fit and proper" for that role. The DSA offers 2 levels of test depending upon whether the driver will be driving a vehicle suitable for carrying a wheelchair user, a wheelchair accessible vehicle. It is Council Policy that all Hackney Carriages will be wheelchair accessible by 2010 and it is therefore recommended that an applicant for a licence to drive a Hackney Carriage must pass the DSA test which tests the applicant's practical skills in loading and unloading a wheelchair user in a Hackney Carriage. At this time, officers do not feel it is necessary or appropriate for drivers of Private Hire vehicles to have to take this test.
- 4.7 Insulin-treated diabetes – The DfT Guidance recommends that taxi and private hire drivers should be tested in accordance with the DVLA Group 2 medical standards. Bracknell Forest presently fully adopts those standards. It is suggested in the DfT Guidance that in certain very restricted circumstances a person who has insulin-treated diabetes should be passed as fit to drive a taxi. Regulation changes to the Group 2 medical standard were made in 2001. This allows insulin-treated diabetics who meet certain qualifying conditions to drive category C1 vehicles (good vehicles up to 7,500 kg). It is suggested that it is best practice to apply the same standard to taxi and private hire drivers with insulin-treated diabetes. This change would permit a very small number of people who meet specific medical requirements to drive a taxi or private hire vehicle when this would not previously have been possible.

Background Papers  
DSA Test Information

Contact for further information  
Laura Driscoll, Licensing Section, 01344 352517  
laura.driscoll@bracknell-forest.gov.uk

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## LICENSING AND SAFETY COMMITTEE 1 FEBRUARY 2007

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### NEIGHBOUR NOTIFICATION (Director of Environment and Leisure)

#### 1 PURPOSE OF DECISION

- 1.1 This report advises the Committee of a new initiative in relation to the introduction and implementation of a 'Neighbour Notification' procedure for applications for premises licences under the Licensing Act 2003 and the Gambling Act 2005.
- 1.2 This procedure would be in addition to the statutory requirements that are already in place in respect of advertising applications in a local newspaper and by means of a notice outside the premises.
- 1.3 The procedure builds on the learning in respect of how planning applications are made public beyond that required by statute.

#### 2 RECOMMENDATIONS

- 2.1 **That the Committee considers and comments on the Neighbour Notification procedure (as attached); and**
- 2.2 **That the officers provide a briefing to Committee at its meeting in October 2007 in relation to the experience gained.**

#### 3 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

##### Borough Solicitor

- 3.1 The relevant legal provisions are contained within the main body of the report.

##### Borough Treasurer

- 3.2 There are no significant financial implications arising from this report that cannot be met from existing budgets.

##### Impact Assessment

- 3.3 There are no implications identified.

##### Strategic Risk Management Issues

- 3.4 There are no strategic risks identified.

#### 4 SUPPORTING INFORMATION

- 4.1 Existing legal requirements require that where there is an application for a new premises licence or an application to vary an existing licence, the applicant must:
- (i) display a notice of A4 size (or larger) on or near the premises for a continuous period of not less than 28 consecutive days, starting the day after the application was submitted to the licensing authority;

- (ii) publish a notice in a local newspaper which circulates in the vicinity of the premises.
- 4.2 The displayed and published notices must contain details of the relevant licensable activities which it is proposed will be carried on at the premises, details of how interested parties can inspect the application and the date by which relevant representations must be made to the licensing authority.
- 4.3 It has become evident that residents particularly in the immediate vicinity of a premises and most likely to be affected by the regulated activity to be licensed are commonly not aware of the application in time to make representation within the relevant 21-day period. This has left residents angry and disappointed that they have not been able to have their say.
- 4.4 In all instances where concerns were raised, it was determined that the legislative notification procedures had been complied with by the applicant. This may indicate that the present legal requirements are inadequate to provide for effective consultation with those most likely to be affected by the activity.
- 4.5 LACORS (the Local Authorities Coordinators of Regulatory Services) have stated that it is a matter for local authorities if they wish to undertake additional advertising outside of the statutory requirements, but that care must be taken to ensure that there could be no accusation of bias or indication as to preference to the outcome of the application process.
- 4.6 The intention is therefore that immediate neighbours adjoining the "premises" will be informed by means of a letter which includes the information contained on the statutory notice that must be displayed outside the premises. The procedure will lay down guidelines as to which neighbours should be contacted, and an officer visiting the site will also have discretion upon contact with other neighbours if in their view those licensed activities might significantly impact upon their property.
- 4.7 There will be a small cost to the implementation of any procedure and these cannot be met by an additional fee to the applicant as charges are set by the government through regulations. The costs will therefore need to be met by the Council through the Council tax provision. Officers, in drawing up the procedure, have sought to keep costs to a minimum, so that they can be met within existing budgetary provision, but still hopefully provide much improved notification for those residents most likely to be affected. The intention is that the procedure be trialled for a period of up to 7 months and that officers should report back to the Committee, at its October meeting, on the costs, benefits or problems identified.

#### Background Papers

Draft procedure for Neighbour Notification

#### Contact for further information

Laura Driscoll, Licensing Section, 01344 352517

[laura.driscoll@bracknell-forest.gov.uk](mailto:laura.driscoll@bracknell-forest.gov.uk)

#### Doc Ref

secs: ctes\other ctes\licensing & safety\2007\feb\neighbour notification\17.1.07

## **GUIDANCE - NEIGHBOUR NOTIFICATION**

This procedure seeks to ensure that persons living in property that might be significantly adversely affected by a licensable activity will be directly notified of any such applications.

Neighbour notification will ensure immediate neighbours have the knowledge and opportunity to consider an application and respond if appropriate.

The process will begin when any one of the following is received:

- Application for new premises licence
- Application to vary premises licence
- Application for new club premises certificate
- Application to vary club premises certificate
- Application for gambling premises licence

When the application has been validated and logged on to the IT system, an A4-sized Ordnance Survey extract, which will be produced and kept with the application. On this extract, the properties identified for direct neighbour notification by letter will be identified. Details below give guidance on how these properties will be identified.

### **Guidance on how to identify properties to be notified**

Occupiers of residential properties are to be notified as follows as a result of a desktop review:

- Residential property sharing a boundary
- Residential properties immediately in front of premises (opposite side of road)

Admin will send letters to those properties identified, duplicating the information required to be entered upon the statutory notice.

The application file will then be forwarded to the Licensing Officer. The Officer should complete the validation of the application as appropriate, and a site visit should be arranged at the earliest convenience, but within 5 days.

During the site visit, the Licensing Officer should ensure that the premises has displayed the appropriate statutory notice. The Officer will then check whether the letters sent by Admin to the neighbours are sufficient.

The Officer should be looking out for:

- Properties sub-divided into flats or smaller units
- New properties not shown on Ordnance Survey extract
- Changes to names of properties

If further properties are identified, the Licensing Officer should where possible immediately deliver copies of previous correspondence and/or note details and pass these to Admin Section for further letters to be sent within 2 working days.

Where a further application is then received in respect of the same site, the Admin Officer should check whether any further properties were identified during the last site visit of the Licensing Officer and include them on the initial mailing list.

## **NB - Use of Discretion**

The Licensing Officer is expected to use judgement in circumstances where:

- (a) other parties, not identified under these notes, may reasonably be considered to be affected due to the nature/location of the activities or geographical factors which might impact upon, particularly noise or nuisance;
- (b) distances between buildings, or other circumstances, are such that notification in precise accordance with the above guidance is considered necessary or unnecessary;
- (c) the premises is in a rural location, in which case any neighbour who might reasonably be construed to be affected should be notified.

## LICENSING AND SAFETY COMMITTEE 1 FEBRUARY 2007

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### REVIEW OF FEES AND CHARGES 2007-2008 (Director of Environment & Leisure)

#### **1 PURPOSE OF DECISION**

- 1.1 Each service area is required to review the fees and charges it levies on behalf of the Council as part of the budget review process. Attached to this report are Appendices which set out the current and proposed fees. Members are asked to review the fees including where appropriate the purpose of charge and agree the fees for the year commencing 1 April 2007.

#### **2 RECOMMENDATIONS**

- 2.1 **That the Committee recommends to the Executive the revised charges detailed in Appendix A for implementation from 1 April 2007; and**
- 2.2 **The proposed changes in operator and vehicle licence fees are:**
- (a) **advertised; and**
  - (b) **any objections reported to the Chair and Vice Chair of the Committee for consideration and approval prior to recommendation to the Executive.**

#### **3 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS**

##### Borough Solicitor

- 3.1 The legal implications are raised within the report.

##### Borough Treasurer

- 3.2 The proposed increases reflect the guideline increase of 5% on fees and charges allowed in the budget proposals for 2007/2008.

##### Impact Assessment

- 3.3 There are no direct consequences of this report for any group and no direct community safety implications.

#### **4 SUPPORTING INFORMATION**

- 4.1 The Council established a policy for the future review of fees and charges when setting the 2007/08 budget. This requires each Department to consider the level of charges against set criteria. Proposals for fees and charges will need to be submitted to the Executive for consideration when it makes the final recommendation for the 2007/08 budget to Full Council. However, at a time when prices are generally relatively stable, the scope for generating significant amounts of

additional income is inevitably limited. Indeed in most instances the Council should seek to recover no more than its costs in relation to the fees and charges subject to this report. At this stage, it is intended that most fees and charges will increase broadly in line with the inflationary effect on the Council's expenditure at around 5%. However, given the Council's underlying budget gap, opportunities for increasing some fees to cover any shortfall in costs have been explored.

- 4.2 The Appendices attached to the report include the charges for the services relevant to the Licensing and Safety Committee for the current year and the projected charges for 2007/08 based upon Council guidance. To allow easy collection, many charges have been rounded up or down. Overall, the effect is an increase of 5% and therefore no significant amount of additional income can be anticipated.
- 4.3 The table of charges is split into 2 parts. Appendix A lists the fees which the committee needs to consider for approval, and Appendix B lists the fees which are set by central government through statute and are for information only.
- 4.4 The Licensing Authority should be operated upon on a cost recovery basis such that the costs involved in the administration and enforcement of the service should be met by the fees charged for the licence. The fee is required to meet the administrative costs of the processing of the application, the issuing of the licence, and the monitoring and enforcement within the relevant market to ensure a fair and safe trading environment for consumer and trader alike.
- 4.5 It will be noted that the following fees have increased beyond the 5% Council figure:

Initial Driver's Licence	£86 to £95 (10.4%)
CRB Check	Cost + £5 to cost +£10

The service is now conducting checks on drivers through the DVLA in relation to any convictions or endorsements on a driver licence. This has become necessary as there has been evidence of drivers and applicants failing to inform Licensing Authorities of their true driving record. The cost of these checks to the Authority is £5 each. It is intended to do such a check at the time of first application and then every 3 years at the time when the Criminal Records Bureau is currently conducted. The increase therefore seeks to recover the £5 paid to DVLA for the check and nothing more.

- 4.6 Fees charged for the licensing of Hackney Carriages, Private Hire vehicles and Operators are required by Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 to be advertised in a local paper with comments and objections received and considered by the Committee. Should objections be received, arrangements will need to be made for the Committee to consider these prior to implementation. This would normally be achieved through the next Committee meeting.
- 4.7 Recent Best Practice guidance issued by the DfT has suggested that operator licences should be issued for period of up to 5 years. At present within Bracknell Forest operator licences are issued on an annual basis. The Council has successfully introduced 3-year licences for drivers and now 13% of drivers opt for a 3-year licence. This provides a 30% saving for the driver over a 3-year period, and reduces administrative work for the Council, although enforcement work is maintained at the same level. It is proposed that a 3-year operator licence be introduced which provides for reduction in the fee to reflect the administration saving to the Council on issuing such a licence. It is calculated that the saving be £50 which

would amount to a saving of 13% on 1-5 vehicles, 6% on 6-20 vehicles and 4.5% on more than 20 vehicles. At present there are 36 operators and if everyone opted for a 3-year licence this would result in a loss of income for the Council of £1,800 over the 3-year period.

- 4.8 As the next committee is not until 19 April 2007, this will result in the operator and vehicle licence fees not being implemented until after that date. This could result in problems in relation to collection and administrative procedures. To reduce the possible impact, it is recommended that the Committee delegates authority to the Chair and Vice Chair to consider any objections received and make a decision on the charges. In the event that there are no objections, the fees will be implemented on 1 April 2007.

Background Papers

None

Contact for further information

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## **ENVIRONMENT & LEISURE DEPARTMENT**

### **FEES & CHARGES 2007/08**

Against each fee or service is the Purpose of Charge.

The Director of Environment & Leisure is authorised to waive all fees and charges should the circumstances warrant but particularly in relation to the need to protect public health.



**APPENDIX A**

**A. TRADING LICENCES**

**PURPOSE OF CHARGE:** to recover the cost of processing applications and monitoring compliance with conditions.

	Initial		Renewal	
	Current	Proposed	Current	Proposed
<b>SEX ESTABLISHMENT: Annual Licence</b>				
Premises	£1,839	£1,931	£980	£1,029
<b>DANGEROUS WILD ANIMAL: Annual Licence</b>				
Premises	£318	£334	£184	£193
<b>RIDING ESTABLISHMENT: Annual Licence</b>				
Premises	£357	£375	£184	£193
Provisional licence	£207	217	£105	£110
<b>ANIMAL BOARDING ESTABLISHMENT: Annual Licence</b>				
1 - 30 animals	£279	£293	£163	£171
31 - 60 animals	£329	£345	£178	£187
61 (or more) animals	£401	£421	£217	£228
<b>DOG BREEDERS: Annual Licence</b>				
Premises	£346	£363	£152	£160
<b>PET SHOPS: Annual Licence</b>				
Premises	£346	£363	£145	£160
<b>SPECIAL TREATMENTS: Single Payment</b>				
Premises		£140		£147
Person		£29		£30

<b>STREET TRADERS' FEES</b>		
	Current	Proposed
Week (minimum charge) (including 1 assistant)	£57	£60
1 month (including 1 assistant)	£212	£223
3 months (including 1 assistant)	£502	£527
6 months (including 1 assistant)	£830	£872
Additional trading assistant	£30	£32

Motor salvage operator	£76	£80
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## B. PETROLEUM LICENCES

**PURPOSE OF CHARGE:** to recover the cost of processing applications and monitoring compliance with conditions.

	Current	Proposed
Replacement of lost petroleum licences	£24	£25
Petroleum storage enquiries	£59 per hour (min charge of 1 hour)	£61 per hour (min charge of 1 hour)
Copy of Register - first copy	£8	£8
Subsequent copies per sheet	15p	15p

## C. TAXI LICENSING

**PURPOSE OF CHARGE:** to recover the cost of processing applications and monitoring compliance with conditions.

HACKNEY CARRIAGE FEES: Annual fee	Current	Proposed
<b>Vehicle:</b>		
Licensing	£189	£198
Inspection	£48 + VAT	£50 + VAT
Re-inspection	£22 + VAT	£23 + VAT
Licence plate	£19	£20
<b>PRIVATE HIRE FEES</b>	<b>Current</b>	<b>Proposed</b>
<b>Vehicle:</b>		
Licensing	£189	£198
Inspection	£48 + VAT	£50 + VAT
Re-inspection	£22 + VAT	£23 + VAT
Licence plate	£19	£20
Home to School	£80	£84

	Current	Proposed
<b>OPERATOR LICENCE</b>		
<b>Licence fee – one year:</b>		
1 to 5 vehicles	£116	£122
6 to 20 vehicles	£230	£242
more than 20 vehicles	£347	£364
		<b>New</b>
<b>Licence fee – 3 years:</b>		
1 to 5 vehicles		£316
6 to 20 vehicles		£676
more than 20 vehicles		£1,042
<b>DRIVER'S LICENCE</b>		
Dual badge - initial fee	£86	£95
Renewal	£63	£66
Renewal - non-continuous	£86	£90
Lost badge	£14	£15
Renewal (3 years)	£134	£141
Renewal (3 years) - non-continuous	£163	£171
Home to school	£26	£27

<b>OTHER CHARGES</b>		
<b>Business:</b>		
Transfer of hackney carriage or private hire business	£69	£72
<b>Vehicles:</b>		
Admin fee for change of a vehicle	£50	£53
<b>Meter test – Retest after failure</b>	£21	£22
Knowledge Test – Retest after failure	£23	£24
First Aid Training for drivers	£19	£20
CRB Criminal Records Check	at cost plus £5 administration fee	at cost plus £10 administration fee
Backing plate	£15	£16
<b>Medical Certificate – exemption from carrying Guide Dogs</b>		£17

## Regulatory Functions

## A. LICENSING ACT 2003

**PURPOSE OF CHARGE: to recover the cost of processing applications and monitoring compliance with conditions.**

Fees for all Licensing Act 2003 permissions have been set by central government. The fees are based on the non-domestic rateable value of the premises. These are divided into 5 bands:

Non-domestic rateable value	Band
£0 - £4,300	A
£4,301 - £33,000	B
£33,001 - £87,000	C
£87,001 - £125,000	D
£125,001 and over	E

The fees for applications for new, and for variation to, premises licences and club premises certificates are as set out below:

Rateable value band	A	B	C	D	E
Main application fee	£100	£190	£315	£450	£635

However, the fees for applications for new or variations to premises licences and club premises certificates where (a) the premises are in Band D or in Band E; and (b) the premises are used exclusively or primarily for the supply of alcohol on those premises, are as set out below:

Rateable value band	A	B	C	D	E
Main application fee	n/a	n/a	n/a	£900	£1,905

Also, applications for new or variations to premises licences and club premises certificates, where the capacity of the premises will exceed 5,000, are subject to an additional fee as set out below:

Number of people in attendance at any one time	Additional fee
5,000 – 9,999	£1,000
10,000 – 14,999	£2,000
15,000 - 19,999	£4,000
20,000 - 29,999	£8,000
30,000 - 39,999	£16,000
40,000 - 49,999	£24,000
50,000 - 59,999	£32,000
60,000 - 69,999	£40,000
70,000 - 79,999	£48,000
80,000 - 89,999	£56,000
90,000 and over	£64,000

Premises licences sought for community centres and some schools that permit regulated entertainment, but which do not permit the supply of alcohol and/or the provision of late night refreshment will not incur a fee.

## OTHER FEES

There are other occasions that fees and charges must be paid to Bracknell Forest Borough Licensing Authority, as set out below:

Personal Licence Application	£37
Application for copy of licence or summary on theft, loss etc of premises licence or summary	£10.50
Notification of change of name or address (holder of premises licence)	£10.50
Application to vary to specify individual as premises supervisor	£23
Interim Authority Notice	£23
Application to transfer premises licence	£23
Application for making a provisional statement	£315
Application for copy of certificate or summary on theft, loss etc of certificate summary	£10.50
Notification of change of name or alteration of club rules	£10.50
Change of relevant registered address of club	£10.50
Temporary Event Notices	£21
Application for copy of notice on theft, loss etc of temporary event notice	£10.50
Application for copy of licence on theft, loss etc of personal licence	£10.50
Notification of change of name or address (personal licence)	£10.50
Notice of interest in any premises	£21

## ANNUAL FEES

Where premises licences and club premises certificates are issued by the licensing authority, the holder of the licence/certificate shall pay an annual fee as set out below:

Rateable value band	A	B	C	D	E
Annual Fee	£70	£180	£295	£320	£350

However, where (a) the premises are in Band D or in Band E; and (b) the premises are used exclusively or primarily for the supply of alcohol on those premises, the holder of the licence/certificate shall pay an annual fee as set out below:

Rateable value band	A	B	C	D	E
Annual Fee	n/a	n/a	n/a	£640	£1,050

Also, where the capacity of the premises exceeds 5,000, the holder of the licence/certificate shall pay an additional fee as set out below:

Number of people in attendance at any one time	Additional fee
5,000 – 9,999	£500
10,000 – 14,999	£1,000
15,000 - 19,999	£2,000

Number of people in attendance at any one time	Additional fee
20,000 - 29,999	£4,000
30,000 - 39,999	£8,000
40,000 - 49,999	£12,000
50,000 - 59,999	£16,000
60,000 - 69,999	£20,000
70,000 - 79,999	£24,000
80,000 - 89,999	£28,000
90,000 and over	£32,000

## B. OTHER LICENCES

**PURPOSE OF CHARGE: to recover the cost of processing applications and monitoring compliance with conditions.**

	Current	Proposed
<b>LICENCE TO SELL GAME: Annual Licence</b>		
Premises (max permitted fee)*	£30	Set by Regulation

	Current	Proposed
<b>GAMING MACHINE PERMITS</b>		
<b>Low tariff machine</b> (each) Maximum fee	£32	Set by Regulation
<b>High tariff machine</b> (total) Maximum permitted fee	£250	Set by Regulation
<b>Lotteries/Amusements</b>		Set by Regulation
Initial (Prescribed fee)	£35	
Renewal (Prescribed fee)	£17.50	

	Current	Proposed
<b>Petroleum (Consolidation) Act 1928 c.32</b>		
Section 4 Licence to keep petroleum spirit of quantity – not exceeding 2,500 litres	£33	Set by Regulation
Exceeding 2,500 litres but not exceeding 50,000 litres	£48	
Exceeding 50,000 litres	£95	
<b>Petroleum (Transfer of Licences) Act 1936 c.27</b>		
Section 1 (4) Transfer of petroleum spirit licence	£8	Set by Regulation

Provision under which a fee or maximum fee is payable	Current	Proposed
<b>Explosives Act 1875 c.17</b>		
Section 15 A Store Licence Section 18 Renewal of a store licence Section 21 Registration and renewal of registration of premises for keeping of explosives with a local authority	£77.00	Set by Regulation

## LICENSING AND SAFETY COMMITTEE 1 FEBRUARY 2007

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### STRETCHED LIMOUSINES (Director of Environment and Leisure)

#### 1 PURPOSE OF DECISION

- 1.1 It is a condition of a Hackney Carriage or Private Hire vehicle licence that if a vehicle has been modified structurally it must have been subject to testing and issued a single vehicle approval (SVA) or low volume vehicle approval (LVVA) certificate by the Department of Transport (DfT).
- 1.2 This requirement has been very successful within Bracknell Forest with regard to modifications such as adaptations for wheelchair users. However it has been found to be the opposite with regard to limousines that have been modified by "stretching".
- 1.3 The purpose of this report is for the Committee to consider and decide if other quality and safety schemes can be adopted as alternatives to the SVA or LVVA system presently in place for such vehicles.

#### 2 RECOMMENDATION

- 2.1 **That the Committee agrees that a vehicle modified and issued with a certificate under either the**

- (a) **Lincoln Qualified Vehicle Modifier Scheme or**
- (b) **Cadillac Master Coachbuilder Scheme**

**will be acceptable for presentation and licensing as a Private Hire vehicle.**

#### 3 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

##### Borough Solicitor

- 3.1 The relevant legal provisions are contained within the main body of the report.

##### Borough Treasurer

- 3.2 There are no significant financial implications arising from this report.

##### Impact Assessment

- 3.3 There are no direct consequences of this report for any group and no direct community safety communications.

## **4 SUPPORTING INFORMATION**

- 4.1 Stretched limousines are becoming increasingly common on the roads of Bracknell Forest. Where the vehicle is constructed or adapted to seat fewer than 9 passengers for the purpose of hire or reward, then it must be licensed as a Private Hire vehicle. If the vehicle is used for more than 9 passengers, then it requires a Public Service Vehicle (PSV) licence. Present regulations relating to PSVs mean that very few limousines can be licensed as a PSV.
- 4.2 A vehicle when first placed on the market will have been granted a national or EC type approval to ensure its safety.
- 4.3 Where a vehicle has been structurally modified such that it no longer conforms with the National or European type approval, it is a Bracknell Forest licence condition that it must have passed and received a certificate for a single vehicle or low volume type approval issued by the DfT. This is to ensure that the vehicle post modification is safe to use. This has been particularly successful and relevant where vehicles have been structurally modified to allow for wheelchair access.
- 4.4 Where a vehicle is to be modified, the DfT inspector will view the vehicle during modification to check the quality of the work. Modifications for stretched limousines often take place within North America prior to importation to the UK. To enable an SVA or LVVA certificate to be issued for a stretched limousine requires a significant disassembling of the vehicle to enable close examination of the work carried out. This has been found to be cost-prohibitive for the operators of the vehicles.
- 4.5 In the USA to meet Federal Motor Vehicle Safety Standards (FMVSS), coachbuilders who modify limousines are required to carry out the modification in line with agreed processes and quality control procedures known as the Qualified Vehicle Modifier (QVM) programme. The Lincoln Qualified Vehicle Modifier (LMC) and Cadillac Master Coachbuilder (CMC) are programmes which are recognised as a QVM for compliance with FMVSS for stretched limousines.
- 4.6 The recommendation for this report is that the Council recognises the LMC and CMC programmes as an alternative to the SVA and LVVA certification offered in the UK to demonstrate the safety of the construction of a modified limousine.

### Background Papers

Ford QVM Program Qualification Requirements.

QVM All You Need To Know.

### Contact for further information

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### Doc Ref

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## LICENSING AND SAFETY COMMITTEE 1 FEBRUARY 2007

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### REVIEW OF LICENSING POLICY (Director of Environment & Leisure)

#### 1 PURPOSE OF DECISION

- 1.1 The Council is required under the Licensing Act 2003 to review and consult upon its Licensing Policy at least once in every 3 years. The present Policy was published on 7 January 2005 and therefore must undergo a review and be re-published on or before 6 January 2008.
- 1.2 The purpose of this report is to advise the Committee on a proposed timetable to enable this legal requirement to be implemented.

#### 2 RECOMMENDATION

- 2.1 **That the Committee notes the proposed timetable as set out in 4.4 to this report for the Review of the Licensing Policy.**

#### 3 ADVICE RECEIVED FROM

##### Borough Solicitor

- 3.1 The legal implications are including within the report.

##### Borough Treasurer

- 3.2 There are no significant financial implications arising from this report.

##### Impact Assessment

- 3.3 There are no direct consequences of the report for any group and no direct community safety implications.

##### Strategic Risk Management Issues

- 3.4 There are no strategic management issues identified.

#### 4 SUPPORTING INFORMATION

- 4.1 By virtue of Section 5 of the Licensing Act 2003, the authority must in respect of each 3-year period:

- (a) determine its policy with respect to the exercise of its licensing functions and
- (b) publish a statement of that policy before the beginning of the period.

- 4.2 The Secretary of State, through regulations namely the Licensing Statement Period Order 2004 SI 2362, set the 3-year period for the purpose of Section 5 as from 7 January 2005 to 6 January 2008.

4.3 Before determining its policy for a 3-year period, the Council must consult with those persons listed within the Act. In addition it is recommended that consultation should be in accordance with Government best practice as set out in "Code of Practice on Consultation" January 2004. Included within that document is a requirement to allow a minimum period of 12 weeks for written consultation at least once during the development of a policy. Whilst this is not a legal requirement, a failure to comply with the Code could be grounds for a subsequent legal challenge to the policy.

4.4 To enable the Licensing Policy to be reviewed and published in accordance with the legislation, the following timetable is recommended.

19 April 2007	Report to the Licensing and Safety Committee on proposals for consultation
20 April – 1 June 2007	Internal consultation
14 June 2007	Start date for public consultation
5 July 2007	Report to the Licensing and Safety Committee on consultation
6 September 2007	End of public consultation
4 October 2007	Report to Licensing and Safety Committee on the consultation together with a Draft Policy for comment and approval
23 October 2007	Report to Executive for approval to take Draft Policy to Full Council
28 November 2007	Draft Policy to Full Council
6 January 2008	New Policy published
7 February 2008	New Policy implemented

4.5 It is intended that the Policy Review will be carried out within existing resources.

Background Papers

None

Contact for further information

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LICENSING AND SAFETY COMMITTEE  
1 FEBRUARY 2007

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**TAXI AND PRIVATE HIRE VEHICLE LICENSING – BEST PRACTICE GUIDANCE  
(Director of Environment and Leisure)**

**1 INTRODUCTION**

- 1.1 The Department for Transport has recently released Best Practice Guidance to assist taxi and private hire vehicle licensing authorities in England and Wales. It is proposed that the Guidance should be considered when making decisions and reviewing policies.

**2 SUPPORTING INFORMATION**

- 2.1 In November 2003 the Office of Fair Trading carried out a market study of the regulation of taxis and private hire vehicles in the UK. One of the recommendations of the study was that the Department for Transport (DfT) should produce guidance on best practice for taxi and private hire licensing authorities.
- 2.2 Draft guidance was published in Autumn 2005 for consultation purposes. The final version of the Guidance was published in late October 2006.
- 2.3 The Guidance has no legislative effect, it is simply a guidance document. It is recognised that it is for individual licensing authorities to make their own decisions on policy and licensing matters, taking into account local circumstances. However, as the Guidance is considered to be Best Practice, it is reasonable to ensure that wherever practicable the Bracknell Forest policy and licence conditions meet the recommendations of the DfT Guidance to reduce the likelihood of legal challenge to policy and decisions.
- 2.4 Areas where the Bracknell Forest policy differs from the DfT Guidance are as follows:
- 2.5 Vehicle emissions testing – A review carried out by the National Society for Cleaner Air in 2005 found that taxis were more likely than other vehicles to fail an emissions test, which suggests that emissions testing should be carried out on an ad hoc basis and more frequently than the full vehicle test. Present facilities at the Depot do not allow for emissions testing. Checks are currently carried out as part of the annual MOT and ad hoc VOSA checks.
- 2.6 Vehicle testing centre – It is recommended in the Guidance that more than one testing station would be good practice. The present arrangements with the Depot are felt satisfactory.
- 2.7 Vehicle identification – It is important that members of the public are able to tell the difference between private hire vehicles and hackney carriages. It is recommended that a 'pre-booked only' sign is displayed on private hire vehicles. The Committee considered the placing of such a condition on licences around 4 years ago. After representations from the trade and taking into consideration that illegal plying for hire is not a major issue within the Bracknell area, the Committee considered it was disproportionate to introduce such a system at that time. Unless there is new

evidence to suggest that public safety is being put at risk within Bracknell Forest which would be resolved by the use of such signs, it is not proposed to seek committee approval for a change in policy.

- 2.8 Acceptance of driving licences from other EU/EEA member states – Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 states that a driver must have held a GB DVLA licence for at least 12 months in order to be granted a taxi or private hire driver's licence. This has been amended by the Driving Licences (Community Driving Licence) Regulations 1996 which allows full driving licences issued by EEA states to count towards the qualification for grant of a taxi or private hire driver's licence. A number of states have joined the EU and EEA since 1996, and the DfT takes the view that drivers should be eligible to obtain a taxi or private hire driver's licence if they have held a full driving licence for at least 12 months which was issued by any EU/EEA state. The Deregulation (Taxis and Private Hire Vehicles) Order 1998 gave equal recognition to Northern Ireland driving licences for the purpose of taxi and private hire driver licensing under the 1976 Act. Council policy currently states that applicants must have held a full DVLA licence for at least 2 years prior to application. It would seem that in light of the above the Council should reconsider its present policy, and a recommendation is included in the "Competency of Taxi and Private Hire Drivers" report on this agenda.
- 2.9 Certificates of Good Conduct – The DfT suggests that a useful way to check the background of applicants who have not been resident in the UK for the last 5 years would be to require the applicant to supply a certificate of good conduct from the relevant embassy or High Commission. This has not been found to be necessary, but with the other proposed changes it would seem to be a useful and necessary action to ensure that persons are fit and proper to become taxi and private hire drivers. A recommendation to implement the best practice is included in the "Competency of Taxi and Private Hire Drivers" report on this agenda.
- 2.10 Insulin-treated diabetes – The Guidance recommends that taxi and private hire drivers should be tested in accordance with the DVLA Group 2 medical standards, which is the standard required for bus and lorry drivers. However, there are exceptional arrangements within DVLA Group 2 to allow insulin-treated diabetics to drive category C1 vehicles (3,500-7,500 kg lorries). It is suggested that best practice is to apply the same standards to taxi and private hire drivers with insulin-treated diabetes. The Council currently applies the DVLA Group 2 standards, and it should be considered whether the medical standard for insulin-treated diabetics should be amended. This would allow insulin treated diabetics to drive taxis and private hire vehicles, subject to them meeting certain qualifying conditions as set out in Annex B to the DfT Guidance. A recommendation to implement the best practice is included in the "Competency of Taxi and Private Hire Drivers" report on this agenda.
- 2.11 Age Limits – The DfT does not recommend maximum age limits for drivers, provided that regular medical checks are made. They also state that minimum age limits would be inappropriate, and that each applicant should be assessed on their merits. Council policy has recently been amended to remove the upper age limit, and it should be considered whether this should also be amended in respect of the minimum age limit. This would, in effect, lower the minimum age limit from 21 to 18. A recommendation to implement the best practice is included in the "Competency of Taxi and Private Hire Drivers" report on this agenda.
- 2.12 Driving Proficiency/Other Training – The DfT does not specifically recommend a form of assessment to ensure the competency of drivers. However, it does specify that the Driving Standards Agency provides a driving assessment specifically designed

for taxi and private hire drivers. The Council does not currently test practical driving skills, but the DSA Taxi and Private Hire driver test could be implemented to ensure a minimum standard. This might be particularly relevant when looking to reduce the minimum age, reduce the 2-year full driving licence requirement to 12 months, and licence foreign nationals who may not have any relevant experience of driving on UK roads. Additionally, there are nationally recognised vocational qualifications for the taxi and private hire trade which focus on customer care, rather than driving skills. A recommendation to require all new drivers to take and pass the DSA Taxi and Private Hire driver test is contained in the "Competency of Taxi and Private Hire Drivers" report on this agenda.

- 2.13 Criminal Record Checks - Operators – Private hire vehicle operators are not exceptions to the Rehabilitation of Offenders Act 1974, so Standard or Enhanced Criminal Record disclosures (which reveal both spent and unspent convictions) cannot be required as a condition of grant of an operator's licence. It is recommended that a Basic Criminal Record disclosure (which reveals unspent convictions only) would be appropriate, along with a certificate of good conduct from the relevant embassy or High Commission for those applicants who have not been resident in the UK for the last 5 years. The Council currently carries out Standard CRB checks for all operators. In order to comply with legislation, the procedure shall be amended so that Basic (rather than Standard) CRB checks are carried out on all private hire vehicle operators.
- 2.14 Operator Licence Duration – The Guidance states that annual licences do not seem necessary, and up to a 5-year period is recommended, with an option of a shorter licence period if requested by the applicant. The Council currently issues operator licences for one year. It would seem appropriate to consider increasing this to 3 years, plus the option of a one-year licence, in line with existing driver licence arrangements. This has been addressed within the Fees and Charges Report for 2007/8.

### **3 IMPACT ASSESSMENT**

- 3.1 There are no direct consequences of the report for any group and no direct community safety implications.

### **4 STRATEGIC RISK MANAGEMENT ISSUES**

- 4.1 There are no strategic management issues identified

#### Background Papers

DfT Taxi and Private Hire Vehicle Licensing – Best Practice Guidance

#### Contact for further information

Laura Driscoll, Licensing Section, 01344 352517  
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#### Doc Ref

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LICENSING AND SAFETY COMMITTEE  
1 FEBRUARY 2007

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**GAMBLING ACT 2005 – PRESENT POSITION**  
**(Director of Environment and Leisure)**

**1 INTRODUCTION**

- 1.1 The Department for Culture, Media and Sport has recently released guidance in respect of the transitional arrangements put in place for the implementation of the Gambling Act 2005. The guidance contains information for both existing and new operators, and has been drawn up following consultation with licensing authorities, the gambling industry and other interested parties.
- 1.2 The document provides details about how to keep existing permissions current and how to obtain a new permission before the new Act comes into force. The document explains what licences operators will require under the new Act, and how to obtain them.

**2 SUPPORTING INFORMATION**

- 2.1 The Council's Statement of Gambling Principles was approved by Full Council on 29 November 2006. The Statement will last for a maximum of 3 years, but can be reviewed and revised by the local authority at any time.
- 2.2 The final version of the Statement was published on 29 December 2006 and was available for inspection at local libraries, Time Square reception and on the Bracknell Forest Borough Council website in accordance with legislative requirements.
- 2.3 The Council will be accepting applications for gambling premises licences from 30 April 2007. The deadline for applications to ensure continuation rights is 31 July 2007, and the Gambling Act will come into full effect on 1 September 2007.

**3 IMPACT ASSESSMENT**

- 3.1 There are no implications identified.

**4 STRATEGIC RISK MANAGEMENT ISSUES**

- 4.1 There are no strategic risk management issues identified.

Background Papers

Notice of Publication of Statement of Gambling Principles

Contact for further information

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### LICENSING AND SAFETY COMMITTEE 1 FEBRUARY 2007

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#### **ANIMAL WELFARE ACT 2006 (Director of Environment & Leisure)**

#### **1 INTRODUCTION**

- 1.1 The purpose of this report is to update members on the above Act which received Royal Assent on 8 November 2006. The primary aim of this Act is to modernise existing legislation contained within 22 Acts of Parliament stretching back to the Protection of Animals Act 1911 and including Pet Animals Act 1951, Riding Establishments Act 1964 and Animal Boarding Establishments Act 1963.
- 1.2 The Local Authority has a duty under many of these pieces of legislation to license and register premises used for the sale or supply of a wide variety of animals. The new Act will significantly impact upon many of those existing duties, requiring additional work in some instances and reducing work in others.

#### **2 SUPPORTING INFORMATION**

- 2.1 The Animal Welfare Act 2006 is enabling legislation. This means that the Act itself does not contain all the legislation and detail necessary to provide the protective and regulatory umbrella envisaged. It sets out the broad principles, the offences and powers. The detail is left to regulations and codes of practice which are to be drafted, consulted upon and implemented over the next 3 years. In the interim period the present legislation used for licensing such as the Pet Animals Act will continue in force.
- 2.2 It is highly likely that when the regulations and codes of practice are released, there will be changes to the existing licensing provisions. For example, pet shop licences are issued on an annual basis and within Bracknell Forest we have 5 licensed premises. The proposal is that the licence will be a 3-year licence but the fee will be set by regulation at a suggested level of around £200. The present annual charge in Bracknell Forest is £346.00. This will result in a minimum two-thirds saving for local businesses and a cost to the Council. It is expected that a similar proposal will apply to Animal Boarding Establishments of which there are 3 within the Borough.
- 2.3 Livery yards are presently not licensed, but there will be additional work for the Council with the proposal for 3-year licensing. It is not known at this time exactly how many livery yards there are within the Borough as there is no registration requirement. However at best guess from work carried out it is expected that the minimum number will be 8. The cost for the new licence is proposed at £150 for the 3 years. It is expected that the yard will be required to be inspected at least once in a 3-year period by a local authority inspector.
- 2.4 It has been suggested within documents released prior to the passing of the Act, and likely to be confirmed either in Regulations or Statutory Codes of Practice that local authority officers will require evidenced competence to conduct inspections at a range of different licensed premises. Dependent upon the requirements, this could have a significant impact upon the skills and competencies within the Licensing Section. In addition the same documents propose joint inspections with veterinarians or other animal specialists, but no mention is made as to how the cost of these

'experts' should be attributed. At present for inspections at Riding Establishments and premises licensed for Dangerous Wild Animals the Council engages an 'expert' and recharges the full fee to the licensed business. Any regulations or codes of practice must be consulted upon before implementation and officers will be keeping a close eye on any suggested proposals, as often these 'expert' costs significantly exceed the licence cost.

- 2.5 The Act introduces wide ranging powers for local authorities to protect the welfare of animals within licensed premises, but also animals which are commonly domesticated in the British Isles, such as dogs and cats. The welfare and care of animals is to be underpinned by a range of codes of practice which will set out minimum levels of best practice that should be applicable to the animal and the environment in which it is to be kept. Failure to keep an animal in line with best practice can amount to a criminal offence which can be dealt with through advice or enforcement by the local authority via improvement notices, removal of animals, prosecution and banning orders. This can apply equally to premises licensed under the Act or to residents of the Borough. At present the Council does not investigate or pursue complaints of unnecessary suffering or cruelty to animals other than those within licensed premises or if they are livestock on farms. If the council is to utilise these powers to their widest extent, this would have significant training and resource implications.
- 2.6 Officers will be looking closely at any consultation documents that are received under this Act and will be keeping members briefed on any developments. In 2007 the proposal is that regulations and codes of practice will be consulted upon and released in the following areas: riding schools, livery yards, animal boarding, pet shops, pet fairs, mutilations and tethering of horses. It is thought unlikely that any impact on revenue or resources will be felt until 2008 although progress on consultation and release could require a revision on that timeframe.
- 2.7 Further regulations are expected to be released in 2009/10 in relation to animal sanctuaries, greyhounds and performing animals.

### **3 IMPACT ASSESSMENT**

- 3.1 There are no direct consequences of the report for any group and no direct community safety implications.

### **4 STRATEGIC RISK MANAGEMENT ISSUES**

- 4.1 There are no strategic management issues identified.

#### Background Papers

Animal Welfare Act 2006

Animal Welfare Bill- Regulating Impact Assessment

#### Contact for further information

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#### Doc Ref

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