



## **NOTICE OF MEETING**

### **Licensing and Safety Committee**

**Thursday 22 March 2012, 7.30 pm**

**Council Chamber, Fourth Floor, Easthampstead House, Bracknell**

### **To: The Licensing and Safety Committee**

Councillor Brunel-Walker (Chairman), Councillor Leake (Vice-Chairman), Councillors Allen, Baily, Mrs Barnard, Brossard, Davison, Finch, Gbadebo, Kensall, Porter, Sargeant, Thompson and Ms Wilson

ALISON SANDERS  
Director of Corporate Services

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Telephone: 01344 352308  
Email: [katharine.simpson@bracknell-forest.gov.uk](mailto:katharine.simpson@bracknell-forest.gov.uk)  
Published: 14 March 2012



**Licensing and Safety Committee  
Thursday 22 March 2012, 7.30 pm  
Council Chamber, Fourth Floor, Easthampstead House,  
Bracknell**

**AGENDA**

Page No

1. **Apologies for Absence**  
To receive apologies for absence.
2. **Declarations of Interest**  
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.
3. **Minutes**  
To approve as a correct record the minutes of the meeting held on 12 January 2012. 1 - 4
4. **Urgent Items of Business**  
Any other items which, pursuant to Section 100B(4)(b) of the Local Government Act 1972, the Chairman decides are urgent.
5. **Notice of Public Speaking**  
To note those agenda items which have received an application for public speaking
6. **Designated Public Place Order**  
To receive a presentation from the Community Safety Manager on the Designated Public Place Order which has been the subject of recent consultation.
7. **Health and Safety Law Enforcement Plan 2012-13**  
To comment on and approve the draft Health and Safety Law Enforcement Plan 2012-2013. 5 - 12
8. **Police Reform and Social Responsibility Act**  
To receive an update on the progress made with regard to the implementation of the Police Reform and Social Responsibility Act. 13 - 14
9. **Live Music Bill 2012**  
To receive an update in respect of the Live Music Act 2012 and the implications the Act will have on licensed premises. 15 - 16

10. **Licensing Panel Minutes**

To receive and note the minutes of the following Licensing Panel Hearings conducted during the last quarter:

17 - 20

- 1 February 2012 Mr A (Private Hire)
- 15 February 2012 Mr A (Private Hire)

11. **Exclusion of Public and Press**

To consider the following motion:

That pursuant to Regulation 21 of the Local Authorities (Executive Arrangements) (Access to Information) Regulations 2000 and having regard to the public interest, members of the public and press be excluded from the meeting for the consideration of item 11 which involves the likely disclosure of exempt information under the following category of Schedule 12A of the Local Government Act 1972:

- (3) Information relating to the financial or business affairs of any particular person.

**Report Containing Exempt Information**

12. **Animal Boarding Establishments: Licence Conditions**

To appraise Members of the outcomes of the inspections of animal boarding establishments in the Borough.

21 - 28

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**LICENSING AND SAFETY COMMITTEE  
12 JANUARY 2012  
7.30 - 9.15 PM**

**Present:**

Councillors Brunel-Walker (Chairman), Leake (Vice-Chairman), Allen, Baily, Mrs Barnard, Brossard, Davison, Gbadebo, Kensall, Porter and Thompson

**Apologies for Absence were received from:**

Councillors Finch, Sargeant and Ms Wilson

**26. Declarations of Interest**

There were no declarations of interest.

**27. Minutes**

**RESOLVED** that the minutes of the Licensing and Safety Committee held on 13 October 2011 be approved as a correct record and signed by the Chairman.

Matters Arising:

Minute 24: Fees and Charges

The Committee was informed that officers would clarify with the trade that the £160 fee for ice cream vans would cover one licence for one van for one month.

**28. Urgent Items of Business**

There were no urgent items of business.

**29. Notice of Public Speaking**

The Committee noted that Mr John Yexley, Chairman of the Bracknell Licensed Taxi Forum had registered to speak to Item 10 of the agenda.

**30. Adoption of Byelaws for Special Treatments**

The Head of Environmental Health presented a report setting out proposals to regulate cosmetic piercing and semi permanent skin colouring, acupuncture, tattooing, electrolysis and ear piercing under one set of consolidated byelaws.

Consolidation of the two sets of byelaws currently used to regulate the delivery of special treatments into a single set would improve operational efficiency and reduce the burdens placed on businesses carrying out the treatments.

If approved the Council would advertise its intent to adopt the consolidated byelaws for a period of one month and once this consultation period had elapsed the Secretary of State would be informed of their adoption.

**RESOLVED** that the Committee recommend that Council pass a resolution to adopt the Byelaws as set out in Appendix A of the report.

### 31. **House to House Collections Guidelines**

The Head of Trading Standards and Services presented a report seeking approval to set a guideline concerning the percentage of proceeds from house to house collections that should be applied for charitable purpose.

While house to house collections for a charitable purpose were required to be licensed by the local authority, unless an exemption order has been granted to the charity in question, there were currently no guidelines in place setting out what proportion of the proceeds of any collection should go to the charity. The introduction of guidelines would provide charities with an expectation of how much they might receive from a collection and reassure the public that items donated would go towards supporting the charity.

While the Government had not issued guidance on the levels of contribution expectations that should be set, guideline figures of 80% set by other local authorities had been upheld on appeal to the Minister for the Cabinet Office.

It was agreed that the possibility of publishing details of all organisations receiving a licence would be investigated.

**RESOLVED** that a minimum guideline figure of not less than 80% of the proceeds from a house to house collection to be applied directly for charitable purposes be approved.

### 32. **Review of Statement of Gambling Principles**

The Chief Officer: Environment and Public Protection presented a report advising the Committee of the proposed timetable to review the Council's Statement of Gambling Principles.

Under the Gambling Act 2005, the Council was required to review and consult upon its Statement of Gambling Principles every three years from the date of adoption. The present Statement of Gambling Principles had been published on 31 January 2010 and therefore must be reviewed and republished on or before 31 January 2013.

The Committee acknowledged the typographical error in paragraph 5.3 of the report and noted that the new Statement would be published on 2 January 2013 not 2 January 2012 as had written.

**RESOLVED** that:

- i. the proposed timetable for review as set out in paragraph 5.3 of the report be approved
- ii. the consultee list contained within Annex A of the report be approved

33. **Street Trading: Designated Consent Streets**

The Committee received a report seeking approval to amend the list of designated Consent Streets for the purposes of street trading.

The proposed amendment sought to designate all streets within the Borough as being Consent Streets. If approved this amendment would mean that traders would need to apply for a street trading licence for any street within the Borough. Officers would also be able to take enforcement action against traders failing to comply with Licensing and Environmental Health inspection regimes and regulation.

A notice declaring the intention to designate all streets as Consent Streets had been published and no objections had been received by the end of the consultation timeframe.

**RESOLVED** that the Committee recommends that Council pass a resolution to designate all streets within the Borough as Consent Streets, to include any land within 150 metres of the highway, with effect from 9 April 2012.

34. **Hackney Carriage Licence Fee**

The Committee received a report detailing out an objection received in relation to a proposed increase in the Hackney Carriage Licence Fee.

At its meeting on 13 October 2011 the Committee agreed to reconsider the proposed fee of £250 for a hackney carriage licence in the event of any objections being received during the fees and charges consultation.

The Committee was informed that the Hackney Carriage Fee used to contribute towards the cost of the administration of the licence and any enforcement work. Whilst the volume of enforcement work had by necessity increased over that period the fee had remained static for the past two years while the trade made additional payments to cover the cost of the Unmet Demand Survey.

**RESOLVED** that the cost of an annual hackney carriage vehicle licence be set at £250 with effect from 1 April 2012.

35. **Proposed Deregulation of Licensing of Regulated Entertainment**

The Committee received a report containing the response sent by officers in respect of the Government consultation to remove the requirement for a licence for regulated entertainment.

Due to the short timescales involved there had been insufficient time to obtain input the full Committee and the response had been developed by officers in consultation with the Committee's Chairman.

It was noted that the Council's response expressed significant concern that the proposed removal of controls from entertainment events would have a hugely detrimental impact on the quality of life for residents living near licensed premises.

The outcome of the consultation was still awaited and further reports would be brought back to the Committee as developments occurred.

The Committee noted the report.

**36. Police Reform and Social Responsibility Act**

The Committee received a report providing an update on the Police Reform and Social Responsibility Act 2011 which received Royal Assent on 15 September 2011.

Part 2 of the Act amended and supplemented the Licensing Act 2003 with the intention of rebalancing it in favour of local authorities, the police and local communities. It was envisaged that the new regulations would not place an overly onerous burden on either officers or licensees when it came into force in the Autumn.

The Committee noted the report.

**37. First Aid Training for Licensed Drivers**

The Committee received a report providing an update on the introduction of the requirement for all licensed drivers to attend first aid courses.

Good progress had been made with the majority of drivers complying with requirement. Of the 351 licensed drivers in the Borough, 22 had not yet attended or booked an initial or refresher first aid course as required and action was being taken to tackle this non-compliance.

Due to illness on the part of the trainer it had not been possible to run sufficient courses to enable all drivers to attend a course before April 2011 as originally planned and the deadline had been extended to March 2012.

The Committee noted the report.

**38. Hackney Carriage and Private Hire Enforcement**

The Committee received a report providing an update on recent enforcement action relating to the taxi and private hire trade and the current penalty points system.

It was noted that the penalty points system was scheduled for review by the end of March 2012. The Chairman proposed that a Member Sub-Group be formed to consider the details before them and that a further report be presented in due course as to proposals for any change. These proposals would then go out for consultation. The Committee noted that the implication of this was that the existing system would continue until such time and would not therefore be changed from April.

The Committee endorsed this approach.

**39. Licensing Panel Minutes**

The Committee received and noted the minutes of the Committee's Licensing Panels held during the previous quarter.

**CHAIRMAN**



TO: LICENSING AND SAFETY COMMITTEE  
22 MARCH 2012

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**HEALTH AND SAFETY LAW ENFORCEMENT PLAN 2012-13**  
**Chief Officer: Environment and Public Protection**

**1 PURPOSE OF REPORT**

- 1.1 The Council has responsibility for the enforcement of health and safety in private sector businesses in the Borough.
- 1.2 This report set out the basic framework within which a mandatory service is provided. It sets out the typical tasks undertaken during a 'typical' year. The Work Plan (annex A) sets out the proposal for delivery in line with direction from the Health and Safety Executive (HSE). The Plan is required in order to comply with Section 18 of the Health and Safety at Work etc Act 1974. The objective is to ensure that national priorities and standards are delivered effectively and consistently at a local level.

**2 RECOMMENDATION(S)**

**2.1 That the Committee**

- (a) Considers the draft Work Plan as set out in Annex A and subject to any comments approve it for 2012-2013 and;**  
**(b) note that an out turn report for 2011-12 will be presented to the next meeting of this Committee.**

**3 REASONS FOR RECOMMENDATIONS**

- 3.1 The Plan sets out how the Council will seek to work with businesses as they seek to comply with health and safety requirements in line with the direction from the HSE.

**4 ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 None. The production of an annual plan is a legal requirement.

**5 SUPPORTING INFORMATION**

- 5.1 When it comes to workplace safety there are effectively two main regulatory arms: the HSE and the Local Authorities. Within Bracknell Forest enforcement is a function of both the environmental health and to a lesser degree trading standards. As at 1 April 2011, there were 1,350 local businesses where the Council has duty to regulate health and safety in the interests of staff and public welfare.
- 5.2 Progress against the Plan is monitored an operational indicator and the Council's performance in relation to health and safety enforcement is reported bi-annually to the Health and Safety Executive. The Executive has powers to intervene should there be a shortfall in performance.

- 5.3 As in previous years the Committee are asked to consider the Plan so they can assure themselves that key needs are being met. The impact and potential benefits arising from the combining of all the regulatory services under the one manager has not been accounted for. Work is under way to effect the benefits but these may not be fully realised over the coming year as there could be training and other issues to address to ensure staff competency levels are assured.
- 5.4 A key theme of the Work Plan is to continue to develop targeted health and safety activity working in partnership with local business and the HSE. We will continue to seek to support self regulation by adopting and encouraging a common sense approach to health and safety. This year's Plan has been populated with targets and initiatives under 3 main headings ie (i) Protecting Consumers and Supporting Businesses, (ii) Project Working and (iii) Performance Management. The portfolio of work is based on national accident data combined with local intelligence to deal with areas of concern for businesses and the public. Visits to businesses will where appropriate encompass multiple regulatory functions in order to seek to minimise the burden to businesses. The work includes accident and complaint investigations as well as requests for advice from businesses.
- 5.5 Consultation with stakeholders is an ongoing process. We publish our Plan on our website and provide copies at key locations in the Borough including the Council's libraries and Town and Parish Council offices. We invite feedback through out the year so as to inform the Work Plan for future years. To date no comments have been made that need to be taken into account.
- 5.6 To put the volume of work associated with its delivery into context, we commit circa 1.5 FTEs to this function. In the current year to date, some 414 inspection have been undertaken and a further 102 health and safety visits have been made for advisory or other enforcement purposes.

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

### Borough Solicitor

- 6.1 The Borough Solicitor is satisfied that the relevant legal provisions are contained within the body of the report

### Borough Treasurer

- 6.2 The Borough Treasurer is satisfied that no significant financial implications arise from this report.

### Equalities Impact Assessment

- 6.3 The Plan will target premises based on the history of risk and identified need. Where issues of equality may arise provision is made to help as necessary. The activity is regulatory and the current plan for 2011-2012 is covered by the overarching document entitled Enforcement Policy 2008 and Equalities Impact Assessment (Executive November 2008). This document is being updated for adoption by the Council and the Health and Safety Law Enforcement Plan will be covered by new enforcement policy. Members will be asked to approve the final plan later in the year.

## Strategic Risk Management Issues

- 6.4 The Council has to ensure compliance with section 18 of the Health and Safety at Work Act etc 1974. The Plan sets out how the Council intends to comply with those obligations and in so doing mitigates against the risk of adverse inspection report followed by intervention.

## **7 CONSULTATION**

### Principal Groups Consulted

- 7.1 The nature of the Plan is such that we have consultation with stakeholders after its adoption. All feedback is taken into account and helps inform the Plan's future development

### Method of Consultation

- 7.2 The Plan will be published on the Council's website and issued to key locations in the Borough, including all the Council's Libraries and Town and Parish Council offices.

### Representations Received

- 7.3 Not applicable.

## Background Papers

HELA Strategic Plan 2000-2004

HSC Strategy for Workplace Health and Safety in Great Britain to 2010 and Beyond – (Securing Health Together – SH2)

Health and Safety in Local Authority Enforced Sectors, Section 18. HSC Guidance to Local Authorities (09/01)

HELA Circular Number 67/1 (Rev 3) Advice to Local Authorities in Inspection Programmes and an inspection rating system (12/2000)

Health and Safety Law Enforcement Plan 2001-12

### Contact for further information

David Steeds

Head of Environmental Health

01344 352530

[david.steeds@bracknell-forest.gov.uk](mailto:david.steeds@bracknell-forest.gov.uk)

### Document Reference

CO:E&PP/Ctees&Gps/L&S/2012/HealthandSafetyLawEnforcementPlan2012-13/20-3-12 (b)

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APPENDIX A  
HEALTH & SAFETY WORK PLAN 2012-13

Protecting Consumers, Supporting Business	Outcome	Indicative Resource	By when
<p><b>Task</b></p> <p>To seek to improve the health and safety standards of workplaces in Bracknell Forest through effective enforcement methods and by providing support and advice to local businesses to help them improve their health and safety compliance, using appropriate methods to ensure regulatory impact does not generate unnecessary burden.</p> <p>To develop, implement and maintain a Health and Safety Plan</p>	<p>Inspection of all A risk rated and relevant new businesses in Bracknell Forest where we are the enforcing authority for health and safety in accordance with HSE guidance.</p> <p>Inspection of all relevant B1 and B2 risk rated businesses in Bracknell Forest using alternative inspection techniques (questionnaires)</p> <p>Provision of advice and information for 20% of all relevant C risk rated businesses in Bracknell Forest, in accordance with HSE guidance.</p>	<p>Total 369 hours</p>	<p>50% - October 2012</p> <p>Complete Fiscal year end</p>
<p>Improve health and safety standards within businesses that present an increased risk to employees and the public</p> <p>Respond to requests from businesses and the public to help improve health and safety compliance.</p>	<p>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 detailed below.</p> <p>To ensure that appropriate further contact is made where a business is identified as failing to meet requirements and putting employees and others at risk, including revisits, further advice and assistance, and formal action as appropriate</p>	<p>Incorporated into other tasks</p>	<p>Fiscal year end</p>
<p>Respond to and investigate relevant reports of workplace accidents and ill-health.</p>	<p>To ensure that effective investigations are carried out for 100% of all relevant notifications and to take prompt action to improve conditions and reduce likelihood of injury or ill-health re-occurring. Examine local trends in accidents reports and use as intelligence.</p>	<p>Total 190 hours</p>	<p>Fiscal year end</p>
<p>Respond to and investigate relevant reports of workplace accidents and ill-health.</p>	<p>To ensure that appropriate and effective response is provided for 100% of such contacts. Where significant risks are identified, to take prompt action to improve conditions and reduce likelihood of injury or ill-health occurring. Examine local trends and use as intelligence.</p>	<p>Total 300 hours</p>	<p>Fiscal year end</p>
<p>Respond to and investigate relevant reports of workplace accidents and ill-health.</p>	<p>To ensure that effective investigations are carried out for 100% of all relevant notifications and to take prompt action to improve conditions and reduce likelihood of injury or ill-health re-occurring. Examine local trends in accidents reports and use as intelligence.</p>	<p>Total 320 hours</p>	<p>Fiscal year end</p>

<b>Task</b>	<b>Outcome</b>	<b>Indicative Resource</b>	<b>By when</b>
In partnership with the Health & 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.	<p>Adapting existing project plans that have been developed by the HSE for campaigns to:</p> <ul style="list-style-type: none"> <li>Free up officer time for developing one campaign 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.</li> </ul>	Incorporated into other tasks	Fiscal year end
To facilitate the delivery of health and safety to reflect local needs whilst ensuring regulatory impact does not generate unnecessary burden	Produce one health and safety newsletter for distribution to all Bracknell Forest businesses	20 hours	Fiscal year end
To maintain up-to-date health and safety pages on the Council's website	Provision of relevant accessible information and links to other key sites including Berkshire Health and Safety Website.	10 hours	Fiscal year end
To support and participate in a joint warranting project with the HSE	Work effectively together on agreed regional projects to provide a consistent and improved service	Incorporated into other tasks	Fiscal year end

### Project Working – Focussing Resources

<b>National Topics</b>	<b>Comments and Outcome</b>	<b>Indicative Resource</b>	<b>By when</b>
Liquid Petroleum Gas Inspection Campaign	Nationwide. Inspection of high risk commercial sites with underground LPG pipe work to ensure safety of employees and site visitors	Total 20 hours	Fiscal year end
Asbestos	Nationwide. Inspection of commercial premises that may contain asbestos materials to ensure risk to employees and visitors is minimised	Total 40 hours	Fiscal year end

<b>Project Working – Focussing Resources (cont)</b>		<b>Indicative Resource</b>	<b>By when</b>
<b>Local Topics Based on National Data and Local Intelligence</b>	<b>Comments and Outcome</b>		
Golf Courses (Non BFC)	Focus on local courses due to high risk grounds maintenance activities and a number of facilities in the area.	Total 45 hours	September to November 2012
<u>Catering Priority Areas</u> Deep Fat Fryers Gas Liquid Petroleum Gas in Mobile Caterers	To be carried out jointly as part of food hygiene inspections in order to minimise multiple regulatory visits to businesses.	Total 40 hours	September to November 2012
Special Treatments	To update existing byelaws to consolidate and reduce the burden on business. To update all existing registrations at no cost to business (28 premises and 82 personal) To process all new applicants and deal with all queries relating to these premises. Risk focused inspection for 30% of licensed premises with view to visit remainder in next 2 years.	Total 200 hours	Fiscal year end
Commercial Swimming Pools ( Non BFC)	Focus on management of water quality and general safety standards – project will involve obtaining up-to-date Risk assessments and recent sampling results s to ensure appropriate interpretation and actions	Total 30 hours	Fiscal year end
Attendance at safety advisory group	Attend monthly meetings and provide support and information for groups interested in holding events. Provide more detailed advice for specific higher risk events as requested	Total 34 hours	Fiscal year end
Fireworks	To inspect 28 licensed premises to check compliance with storage and safe provisions.	Total 56 hours	Fiscal year end

Performance Management	Outcome	Indicative Resource	By when
<b>Task</b>		Total 20 hours	Fiscal year end
To respond within agreed timetables for performance data for HSE	Full reports bi-annually and in year returns submitted within time frames		
To maintain a quality service in accordance with Section 18 HSE	Annual review (and update as necessary) of the S18 plan to demonstrate compliance with S18 Implementation of the agreed work plan, ensuring consistency of approach and maximised resources Continue to implement an in-house competency system for appointed officers Reviewed and up-to-date internal procedures Identification of staff training needs during appraisals, including: Regulators Development Needs Analysis tool (RDNA) Guidance for Regulators Information Point (GRIP) To ensure S18 compliance through consistency exercise training of officers.	Total 95 hours	Fiscal year end
Complete Monthly Performance Assessments (KPI's)	Report on quality and consistency of the Commercial Team's work and review as necessary	Total 5 hours	Fiscal year end
To undertake benchmarking with the other Berkshire Authorities via the Berkshire Health & Safety Liaison Group	Application of best practice, enabling the service to continually improve and identify areas suitable for collaborative working.	Total 12 hours	Ongoing
To maintain officer competence for Flexible Warranting with HSE	Staff training and experiential learning. Ensuring competence in basic health and safety skills	Incorporated into other tasks	Ongoing
To consult with stakeholders	To seek Business satisfaction levels by annual ongoing consultation and to use the information to improve the service and to further identify local needs.	Incorporated into other tasks	Ongoing
To maintain integrity of data held	To ensure accurate record of premises in the borough.	Total 10 hours	Ongoing
To respond to requests for information	To provide information and assistance for all received Freedom of Information and other relevant data holding requests.	Total 10 hours	Fiscal year end
		<b>Total Resource: 1,826 hours</b>	



**TO: LICENSING AND SAFETY COMMITTEE  
22 MARCH 2012**

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**POLICE REFORM AND SOCIAL RESPONSIBILITY ACT  
Chief Officer: Environment and Public Protection**

## **1 INTRODUCTION**

At the last Committee on 12 January members received an update on the provisions of the above Act which received Royal assent in September 2011. The purpose of this report is to update members on progress with the implementation of the Act.

## **2 SUPPORTING INFORMATION**

2.1 The Home Office towards the end of January announced that it was intended that enabling legislation would be provided on 6 April 2012 commencement date to introduce the following:

1. Licensing Authorities and Primary Health Boards to be Responsible Authorities.
2. Removal of the "vicinity" requirement for interested parties to make representation.
3. Reducing the evidential burden by replacement of the word "necessary" with "appropriate" when a Licensing Panel is considering which conditions should be applied to a licence.
4. Temporary Events Notices – this includes the provision for Environmental Health to be a Responsible Authority alongside the Police and able to object to such applications. This change will also introduce longer periods for Temporary Events Notices to operate and increase the number permitted within a year for a premise.
5. Fees – the provision to allow a Local Authority to suspend a licence for non payment of the annual fee will be introduced.
6. Persistent sales of alcohol to children – this will introduce a maximum fine of £20,000 and immediate closure notices issued by the Police for up to 14 days.

2.2 The guidance under Section 182 of the Licensing Act will be modified to reflect these new provisions and released before or on the implementation of these changes.

2.3 The proposals for the following:

- Early morning restriction orders
- Late night levy
- Repeal of Alcohol Disorder Zones
- Setting of licence fees at a local level

will not be introduced until at least the Parliament commencement date of October 2012.

### Contact for further information

Robert Sexton – 01344 352580

[robert.sexton@bracknell-forest.gov.uk](mailto:robert.sexton@bracknell-forest.gov.uk)

### Document Ref

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**TO: LICENSING AND SAFETY COMMITTEE  
22 MARCH 2012**

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**LIVE MUSIC BILL 2012  
Chief Officer: Environment and Public Protection**

## **1 INTRODUCTION**

The Live Music Bill 2012 received Royal Assent on 8 March 2012. When implemented the Act will change provisions within the Licensing Act 2003 to deregulate live music within premises licensed for the sale of alcohol, and remove facilities for making music and dancing from the definition of regulated entertainment.

## **2 SUPPORTING INFORMATION**

2.1 The Live Music Bill will amend Section 177 of the Licensing Act 2003 to relax controls over live music performances in premises licensed for the sale of alcohol. At present Live Music is covered by the term “provision of music entertainment” within Section 177 ‘Dancing and Live Music in certain small premises’. The primary outcomes of this change in legislation are that Live Music will cease to be regulated entertainment in venues licensed for the sale of alcohol for consumption on the premises in the following situations:

- When it is unamplified and takes place between 8.00am and 11.00pm; and
- When it is amplified and takes place in the presence of an audience of 200 persons or less and is provided between 8.00am and 11.00pm.

2.2 Any condition attached to the Premise Licence relating to live music ceases to have effect in respect to live music, unless the Licensing Authority through a Licence Review Hearing states otherwise. Therefore no conditions are in place until a Licensing Panel is convinced that they are required as part of a review brought to them. This latter provision was not included in the original Private Members Bill presented by Lord Clement Jones.

2.3 If live music is performed in premises which are not licensed for the sale of alcohol, the Bill provides that it will not be regulated entertainment if it is unamplified and takes place between 8.00am and 11.00pm. Amplified live music in such premises will still require a Premises Licence or a Temporary Event Notice.

2.4 In addition the Bill removes the provision of facilities for making music and dancing from the definition of “regulated entertainment”. This would mean that providing a dance floor would now be exempt as would providing a piano for guests to play.

2.5. The exact timing of the introduction of the provision is not yet known but what is known is that there is a desire to have the legislation in place prior to the Queen’s Jubilee celebrations and the Olympics, although it is more likely to be October 2012 due to the need to ensure that guidance is updated and proper preparations are made.

2.6 The new provisions with an audience limit of 200 or less will apply to almost all venues with Bracknell Forest. Most licence conditions, in particular those relating to Public Nuisance, are written to cover a range of activities including live music. Where these conditions are generic they will remain but they will not be applicable to live music as defined within the new legislation.

- 2.7 Where a premises has Live Music in accordance with the Act, that licence may be called for review by a responsible authority and if a Licensing Panel is satisfied that it is appropriate it may add conditions to the licence relating to Live Music. This provides a control measure for the Licensing Authority should irresponsible licensees through the provision of Live Music step outside the licensing objectives.

Contact for further information

Robert Sexton – 01344 352580

[robert.sexton@bracknell-forest.gov.uk](mailto:robert.sexton@bracknell-forest.gov.uk)

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**LICENSING PANEL  
1 FEBRUARY 2012  
10.00 AM - 12.30 PM**

**Present:**

Councillors Brossard (Chairman), Allen and Davison

**In Attendance:**

Sue Walker, Licensing Officer

Simon Bull, Legal Services

Detective Constable Melvyn Lewis

**1. Declarations of Interest**

There were no declarations of interest.

**2. The Procedure for Hearings at Licensing Panels**

The Chairman confirmed that all parties understood the procedure to be followed for the hearing.

**3. Exclusion of Public and Press (S100A)**

**RESOLVED** that pursuant to section 100A of the Local Government Act 1972, as amended, members of the public and press be excluded from the meeting for consideration of item 4 which involved the likely disclosure of exempt information under category 1 of Schedule 12A of that Act:

- (1) Information relating to any individual

**4. Report on Licensed Private Hire Driver**

A referral was made to the Licensing Panel, following a total of 18 penalty points being issued to Mr A within the last 12 months. Bracknell Forest Council policy states that where a licensed driver is issued with 12 or more points within a 12 month period, a referral is made to the Licensing Panel to determine if the driver's licence should be revoked, suspended, or allowed to continue with conditions.

At the hearing, the Panel gave careful consideration to the papers placed before them and heard and considered oral representations from Mr A, Mrs Walker, Licensing Officer and Detective Constable Lewis. The Panel's Legal Adviser, Simon Bull also assisted Mr A as an unrepresented person.

Having considered all the evidence, the Panel decided that Mr A's **private hire licence should be suspended for a period of six weeks, in addition he be required to undertake and pass the DSA private hire driver test within this six week period.** The suspension would take effect as of 7 February and end on 19

March 2012, subject to Mr A having passed the DSA private hire driver test within this period. If for any reason Mr A was unable to access the DSA test in this six week period, he would need to contact the Licensing team and provide documentary evidence showing that he had made every effort to secure a booking; the Licensing Officer would then use their discretion to decide on what action to take.

The Panel pointed out that based on the particular facts in this case and on this particular occasion, considering all the relevant factors in the round and balancing the appropriate disposal, Mr A was dealt with on this occasion with a level of leniency. However, it should not be assumed that were Mr A to return to another panel in the future, he would be dealt with similarly again or that this in any way sets a precedent. The Panel gave Mr A credit when weighing up whether he was a fit and proper person to continue to hold a licence for; admitting that he had been speeding on 14 October 2011 and attending the hearing without the benefit of representation or trade support. The Panel also noted Mr A's personal circumstances and the hardship he would face if deprived of his livelihood.

Mr A was strongly advised to adhere to the conditions of your licence, any subsequent offences before 23 November 2012 , resulting in him being issued with **any** penalty points, irrespective of the severity of the offence, would require him to come before another hearing of the Licensing Panel.

**CHAIRMAN**

**LICENSING PANEL  
15 FEBRUARY 2012  
10.30 - 11.51 AM**



**Present:**

Councillors Brossard (Chairman), Davison and Finch

**In Attendance:**

Mr A, Appellant's Representative  
Simon Bull, Legal Adviser to the Panel  
Sue Walker, Licensing Officer  
Priya Patel, Democratic Services Officer

**5. Declarations of Interest**

There were no declarations of interest.

**6. The Procedure for Hearings at Licensing Panels**

The Chairman confirmed that all parties understood the procedure to be followed for the hearing.

**7. Exclusion of Public and Press (S100A)**

**RESOLVED** that pursuant to section 100A of the Local Government Act 1972, as amended, members of the public and press be excluded from the meeting for consideration of item 4 which involved the likely disclosure of exempt information under category 1 of Schedule 12A of that Act:

- (1) Information relating to any individual

**8. Report on Licensed Private Hire Vehicle**

At the hearing, the Panel gave careful consideration to the papers before them, including the five page written statement submitted at the hearing by Mr A on the appellant's behalf. The Panel also heard and considered oral representations from Mr A and Mrs Walker. The written submission from the appellant was carefully considered by the Panel and taken into account both at the hearing and whilst arriving at their decision. The Panel also were mindful that the appellant's representative, Mr A, attended the hearing without the benefit of legal or trade representation.

The Panel decided not to uphold the appeal for an exemption in respect of the age limit conditions, therefore the private hire licence was revoked.

The Panel made their decision based on the following reasons:

The Panel did not accept that the vehicle was in exceptional condition, or that the vehicle had travelled an abnormally low mileage. The Panel took into account that a discrepancy existed in the recorded mileage of the vehicle and concluded that the vehicle had travelled in excess of 300,000 miles and this was accepted by the appellant's representative Mr A to be correct. It was noted that the mileage was 294,364 on 29 June 2011, whilst on 3 November 2011 it was 210,226. Mr A advised the Panel that this was a result of the vehicle being in an accident and the dashboard being replaced, using parts from a donor vehicle. The Panel felt that the importation of a mileometer which was not re calibrated to the actual mileage at the point of transfer was a matter of concern and asked that this be taken on board and measures be put into place to ensure that this practice did not happen again in the future.

- The Panel found it to be unacceptable that parts from a donor vehicle had been used in this way to replace the true recorded mileage of the vehicle and that the Panel's disapproval be taken on board and acted upon within the organisation.
- In addition, the Panel found that there was no evidence of the vehicle having been regularly serviced and maintained, despite Licensing Officers requesting this information. The Panel felt that a person who was appealing on grounds of exceptional condition would have supplied qualitative evidence of the condition of their vehicle through the provision of service and maintenance records. The Panel also see it as incumbent upon the appellant to fully understand and comply with the conditions of his licence.
- The Panel felt strongly that public safety was paramount in this matter and that the age and condition of the vehicle did not satisfactorily ensure public safety.
- The Panel could only uphold the appeal if both the criteria of; the vehicle being in an exceptional condition and the vehicle having travelled an abnormally low mileage were met. As the vehicle did not meet either of these criteria, the Panel concluded they could not uphold the appeal. Further, there was no qualitative evidence before the Panel to rebut the Licensing Officers recommendation following an inspection, that the car was not in exceptionally good condition or that the mileage was abnormally low.

**CHAIRMAN**



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