



NOTICE OF MEETING

Licensing and Safety Committee

Thursday 10 January 2013, 7.30 pm

Council Chamber, Fourth Floor, Easthampstead House, Bracknell

To: The Licensing and Safety Committee

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

ALISON SANDERS
Director of Corporate Services

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Published: 27 December 2012



Licensing and Safety Committee
Thursday 10 January 2013, 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 asked to declare any personal or disclosable pecuniary interest in respect of any matter to be considered at this meeting.

Any Member with a Disclosable Pecuniary Interest in a matter should withdraw from the meeting when the matter is under consideration and should notify the Democratic Services Officer in attendance that they are withdrawing as they have such an interest. If the Disclosable Pecuniary Interest is not entered on the register of Members interests the Monitoring Officer must be notified of the interest within 28 days.

3. **Minutes**

To approve as a correct record the minutes of the meeting held on 11 October 2011.

1 - 6

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

Decision Items

6. **Hackney Carriage Licence Fee**

That the Committee considers any objections received in relation to the consultation on proposed increases in the hackney carriage licence fee and confirms the proposed fee for an annual hackney carriage vehicle licence effective from 1 April 2013.

7 - 10

7. **BIS Consultation on Street Trading and Pedlary Laws**

To receive a report seeking the Committee's input into the Council's response to a Government consultation on draft regulations to repeal the Pedlars Act and change street trading legislation

11 - 22

8. **Alcohol Strategy Consultation** 23 - 30
- To receive a report seeking the Committee's input into the Council's response to a Home Office consultation in respect of the Government's Alcohol Strategy.

Information Items

9. **Mobile Homes Bill** 31 - 32
- To receive a report advising the Committee of a private members' bill that was introduced to address the growing number of complaints around what were perceived as rogue practices by caravan park owners.
10. **House to House Collections** 33 - 34
- To make the Committee aware of the information available to the public in respect of house to house collections which take place in Bracknell Forest.
11. **Licensing Panel Minutes** 35 - 36
- 15 October 2012 – Rose and Crown (Premises Licence)

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**LICENSING AND SAFETY COMMITTEE
11 OCTOBER 2012
7.30 - 8.25 PM**

Present:

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

15. Declarations of Interest

There were no declarations of interest.

16. Minutes

RESOLVED that the minutes of the Licensing and Safety Committee meeting held on 5 July 2012 be approved as a correct record and signed by the Chairman.

17. Urgent Items of Business

There were no urgent items of business.

18. Notice of Public Speaking

It was noted that Mr Steve Richardson and Mrs Jackie Richardson had registered to speak to Item 6: Age of Vehicle at First Registration.

19. Age of Vehicle at First Registration

The Licensing Team Leader presented a report seeking agreement to vary the existing licensing condition relating to the maximum age for the first licensing of a vehicle such that a 'prestige car' can be first licensed up to nine years subject to the vehicle meeting the exceptional condition requirement and having travelled less than 150,000 miles.

The Committee noted that 'prestige vehicles' were used exclusively for corporate work and were often high quality vehicles with high specification safety features. In addition, the first licensing of these vehicles beyond five years would not adversely impact upon the safety of those travelling within the vehicle.

The Committee questioned the exclusion of vehicles that had been designed or adapted for off-road use from the classification of 'prestige vehicles' in the Guidance Notes and Conditions for Hackney Carriage and Private Hire Vehicle Owners, Operators and Drivers. It was agreed that this exclusion appeared arbitrary when applied to some of the newer high value off-road vehicles and that the condition would be removed from the Guidance Conditions and Notes when they were reissued in January 2013.

RESOLVED that a 'prestige car' can be first licensed if it is less than 9 years old as long as it meets the 'exceptional condition' requirement and has travelled less than 150,000 miles.

20. **Chauffeur Licences**

The Licensing Team Leader presented a report seeking the implementation of a Chauffeur Private Hire Driver Licence.

In October 2011, the Council introduced a Chauffeur Licence trial for one year. The licence was for those drivers who had been granted a private hire dispensation to drive vehicles of a certain size and standard that were used exclusively for corporate or executive work where there was a prior business arrangement in place. In order to qualify for the licence a driver had to pass all elements of the Private Hire Driver conditions with the exception of the geographical element of the Private Hire Driver Knowledge Test. Over the course of the trial 10 licences had been issued.

RESOLVED that the success of the trial be noted and that the continuation of the Chauffeur Private Hire Driver Licence Scheme be approved under the agreed conditions.

21. **Fees and Charges**

The Committee considered the proposals for fees and charges and were asked to agree a set of fees for general licences that would go forward for public consultation and agreement by the Executive as part of the budget review process. The fees for Hackney and Private Hire vehicles and operators would go through a separate prescribed process before being adopted.

It was reported that where the Council had discretion to set fees and charges a decision had been taken to increase these by an average of 2.5%.

RESOLVED that:

- i. Save for the Operators, Hackney Carriage and Private Hire Vehicle Licence fees, that the Committee recommends to the Executive the new fees and charges detailed in Annex A of the Director of Environment, Culture and Communities' report, for public consultation.
- ii. That the Committee agrees that the proposed charges for Operators and Vehicle Licence fees are:
 - a. advertised
 - b. if no objections are received, implemented as from 1 April 2013; or
 - c. if objections are received they be considered by the Committee at the meeting on 10 January 2013.

22. **Gambling Act 2005 Delegations**

The Committee considered a report seeking approval of the delegation of functions under the Gambling Act 2005.

In March 2006 the Committee approved the delegation of a number of functions in relation to the Gambling Act 2005. Since that time, it had become clear that a number of additional functions could have been further delegated beyond the

Committee and a number of new functions had been added to the Committee's responsibility.

In apportioning the proposed delegations officers had considered risk factors and the need for member input and balanced these against the need for a speedy process that did not unnecessarily delay the issue, suspension or revocation of licences or permits for a business.

The Committee noted the typographical error in the table appended to the Director of Environment, Culture and Communities' report and that the wording of the first sentence of the Functions under Section 188 should read 'Determination of application for Premises Licence in respect of which representations have been made (and not withdrawn).'

RESOLVED that the list of delegations attached as annex A to the Director of Environment, Culture and Communities' report be approved with effect from 12 October 2012.

23. Hackney Carriage Surcharge

The Committee considered a report seeking approval to consult on proposed amendments to the tariff of authorised fares which can be charged by hackney carriages in Bracknell Forest.

The current tariff imposes a 50% surcharge on top of the standard fare whenever a hackney carriage carried more than four passengers. In recent years, a number of drivers have raised concerns about the additional charge and expressed the opinion that they did not feel comfortable using the system, which required them to press a button on the meter at the need of the journey to add 50% onto the total, as it could cause disputes with customers. Complaints had also been received from members of the public. It was proposed to replace this with an additional flat fee of 50p per additional person be added to the flat fare when more than 4 passengers were carried.

The proposed changes would apply to all vehicles with meters. It was acknowledged that although meters would need to be recalibrated should the changes be introduced it was hoped that no additional tests should be required.

RESOLVED that:

- i. The revised fare chart attached as Annex B to the report of the Director of Environment, Culture and Communities, be approved for consultation with the trade and general public
- ii. Officers bring a report on the results of the consultation to the next meeting of the Licensing and Safety Committee

24. Animal Boarding Establishments - Home Boarding for Dogs

The Committee considered a report seeking to amend the model home boarding of dog licence conditions.

It was noted that approval of the proposed amendments would bring the Council into line with new LACORS guidance and with other local authorities.

RESOLVED that:

- i. Condition 3.2 of the model home boarding licence conditions be amended to: "Only dogs from the same household may be boarded at any one time unless the licence holder has secured the specific written consent of each household to confirm that they are content for their dogs to be boarded with others. Dogs must be separated in secure areas when left unattended and must also be fed separately. Dogs must not be boarded with any cat, unless they normally live together in the same household"
- ii. Condition 1.6 of the model home boarding licence conditions be amended to: "Puppies under 6 months of age may be boarded with other dogs provided they have been suitably vaccinated and no difficulties identified during a documented trial socialisation period";
- iii. Both of the above amendments to come into effect when the licences are next renewed as from 1 January 2013.

25. Review of Guidance Notes and Conditions For Hackney Carriage and Private Hire Vehicle Owners, Operators and Drivers

The Committee received a report setting out the results of the recent consultation on the amended version of the Council's Guidance Notes and Conditions for Hackney carriage and Private Hire Vehicle Owners, Operators and Drivers document.

The Guidance Notes and Conditions document sets out the legal requirements, licence conditions and gives guidance to the trade. They are updated on a regular basis to reflect changes in law and Council policy.

The Committee noted that no comments had been received in response to the consultation.

It was agreed that the exclusion of vehicles that had been designed or adapted for off-road use from the classification of 'prestige vehicles' exclusion would be removed from the Guidance Conditions and Notes when they were reissued in January 2013.

RESOLVED that:

- i. that the exclusion of vehicles that had been designed or adapted for off-road use from the classification of 'prestige vehicles' exclusion be removed from the Guidance Conditions and Notes when they are reissued in January 2013
- ii. The amended Guidance Notes and Conditions document be approved for implementation with effect from 1 January 2013.

26. Street Trading Consent Standard Conditions

The Committee considered a report setting out the results of recent consultation on the amended version of the Council's standard conditions to be attached to street trading consents issued within Bracknell Forest.

The Committee noted the material changes made to the standard conditions, as detailed in paragraph 5.4 of the Director of Environment, Culture and Communities' report, and that no responses had been received to the consultation.

RESOLVED that the revised conditions, set out in Annex B of the Director of Environment, Culture and Communities' report, be approved for implementation on all street trading consents with effect from 1 January 2013.

27. **Law Commission Consultation on Taxi and Private Hire Services**

The Committee noted a report setting out provisional proposals to reform the legislation governing hackney carriage and private hire vehicles, drivers and operators.

28. **Live Music Act 2012**

The Committee noted a report providing an update on the implementation of the Live Music Act 2012 and the implications that this would have on live music performances.

29. **Public Fundraising Regulatory Association: Street Fundraising**

The Committee noted a report setting out changes to the best practice regime used by the Public Fundraising Regulatory Association (PFRA) that came into effect on 20 August 2012 and the implications that these would have for face to face charity collections carried out in the town centre by members of the PFRA.

30. **Licensing Panels**

The Committee noted the minutes of Licensing Panel hearings held during the last quarter.

CHAIRMAN

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**TO: LICENSING AND SAFETY COMMITTEE
10 JANUARY 2013**

**HACKNEY CARRIAGE LICENCE FEES
Chief Officer: Environment and Public Protection**

1 PURPOSE OF REPORT

- 1.1 At the meeting of 11 October 2012 the Committee agreed to put out for public consultation proposed increases in the fees for hackney carriage, operator and private hire vehicle licences. This consultation finished on 4 January 2013 and officers will bring to the meeting the results of that consultation.

2 RECOMMENDATION

- 2.1 That the Committee considers any objections to the proposed increases and confirms the fees as set out in Annex A to take effect for licences commencing from 1 April 2013 onwards.**

3 REASONS FOR RECOMMENDATION

- 3.1 The recommendation recognises the requirements placed upon the Council in respect of setting such fees. If an objection is received, then in accordance with the legal requirements the objection must be considered and the Committee must decide on the fee to be set from 1 April 2013.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 There is no alternative option that would meet the legal requirements within the Local Government (Miscellaneous Provisions) Act 1976.

5 SUPPORTING INFORMATION

- 5.1 Fees proposed to be charged for the licensing of hackney carriages, private hire vehicles and private hire operators are required by Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 to be advertised in a local paper with a period of 28 days from the date of publication to allow for objections to the proposals to be made. Objections must be made in writing and received at Time Square.
- 5.2 On Thursday 6 December 2012 a notice was published in the Standard newspaper. A copy of that notice is attached to this report as Annex A. The notice required that any objections be received by Friday 4 January 2013. The feedback from this consultation will be reported orally so that members can consider whether or not to change their proposals as agreed at the meeting on 11 October and consulted on. If changes are made we do not need to re-consult.
- 5.3 The Council gave guidance that fees and charges should be increased on average by 2.5%, the inflation rate. These fees were increased between 2.4 and 2.6% which reflects the rounding up of charges to the nearest pound.

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

6.1 The legal implications are identified within the report.

Borough Treasurer

6.2 Proposed increases in fee income are included in the provision for inflation calculation in the 2013/14 budget setting process.

Equalities Impact Assessment

6.3 There are no implications arising from the recommendation in this report.

Strategic Risk Management Issues

6.4 There are no implications arising from the recommendation in this report.

7 CONSULTATION

Principal Groups Consulted

7.1 Members of the public, businesses and representatives of the taxi trade.

Method of Consultation

7.2 Notice within the Standard newspaper in accordance with the requirements of the Local Government (Miscellaneous Provisions) Act 1976.

Representations Received

7.3

Background Papers

Contact for further information

Robert Sexton, Head of Regulatory Services - 01344 352580

robert.sexton@bracknell-forest.gov.uk

fish4jobs

PUBLIC NOTICES

BRACKNELL FOREST BOROUGH COUNCIL Local Government (Miscellaneous Provisions) Act 1976 Section 70 – Fees for Licensing of Hackney Carriages and Private Hire Vehicles and Operators

NOTICE IS HEREBY GIVEN that Bracknell Forest Borough Council proposes to vary the fees for licensing of hackney carriages and private hire vehicles and operators as follows:

Hackney Carriage Licence: £256
Private Hire Vehicle Licence: £256
Home to School Vehicle Licence: £130
Private Hire Operator Licence:

	1 year licence	3 year licence
1 vehicle:	£165	£396
2-5 vehicles:	£287	£697
6-10 vehicles:	£481	£1155
11-15 vehicles:	£666	£1600
16-20 vehicles:	£902	£2165
More than 20 vehicles:	£1086	£2607

A copy of this notice is available for public inspection during normal office hours at the Customer Service Centre, Bracknell Forest Council, Time Square, Market Street, Bracknell for 28 days from the date below.

Any objections to the proposed fees should be submitted in writing to the undersigned by 4 January 2013. If no objections are received, or any such objections are subsequently withdrawn, the revised fees will come into operation on 1 April 2013.

6 December 2012

Robert Sexton
Head of Regulatory Services
Bracknell Forest Council
1st Floor Time Square
Market Street
Bracknell
RG12 1JD

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**TO: LICENSING AND SAFETY COMMITTEE
10 JANUARY 2013**

**BIS CONSULTATION ON STREET TRADING AND PEDLARY LAWS
Director of Environment, Culture and Communities**

1 INTRODUCTION

- 1.1 The purpose of this report is to bring to the Committee for approval a draft response to a consultation on draft regulations to repeal the Pedlars Act and change street trading legislation.

2 RECOMMENDATION

- 2.1 **That the Committee considers the draft response at Annex A, and subject to any amendments confirms the response of the Committee.**

3 REASONS FOR RECOMMENDATION

- 3.1 The draft regulations if introduced will impact on the authorisation process for street traders carried out by the Council.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The Committee can amend the draft response at Annex A. There is no obligation to respond to the proposals.

5 SUPPORTING INFORMATION

- 5.1 The Department of Business, Innovation and Skills has released a joint consultation on draft regulations to repeal the Pedlars Acts 1871 and 1881 and to amend street trading legislation to secure compliance with the European Services Directive. The primary aim of the European Services Directive is to make it easier for service businesses to set up or sell their services anywhere in the European Union. The retail sale of goods is a service activity within the scope of the Directive.
- 5.2 In order for an authorisation scheme (such as the pedlars' certification regime or the street trading licensing regime) to be justified, the requirements of Articles 9 and 16 of the Directive must be met. In general, this means that the authorisation scheme must be non-discriminatory, necessary and proportionate.
- 5.3 It is the view of Government that the Pedlars Acts 1871 and 1881 do not comply with these Articles and are burdensome on both pedlars and the Police (who administer the scheme of authorising pedlars) and therefore the regime would be abolished and a more precise definition of what behaviour constitutes acting as a pedlar would be inserted into the pedlar exemption from the street trading legislation. This would include a definition of the maximum size of any receptacle used by the pedlar to carry his goods, a maximum amount of time that a trader can remain static, and requirements to keep the pedlar trading while on the move.
- 5.4 There is also a proposal to amend street trader legislation in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 in relation to the designation of streets, the discretionary and mandatory grounds for refusing or revoking a street trading consent, and the maximum duration of a consent.

- 5.5 The Council currently designates all highway and land within 150 metres of the highway as consent streets for the purposes of street trading, meaning a street trading consent is required to trade in those locations. The consultation proposes to amend the Council's designation power so that in addition to the power to designate a street as a consent street for all traders, there would be a power to designate a street as a consent street for permanent traders only, which would enable temporary traders to trade on the street without an authorisation.
- 5.6 The consultation also proposes a provision to enable consents to be granted for longer than the current maximum of 12 months, for either a longer period or indefinitely.
- 5.7 Another key proposal is the removal of the mandatory grounds to refuse a consent on the basis of a minimum age, as it is felt there is already sufficient protection for children under Part II of the Children and Young Persons Act 1933.
- 5.8 The consultation states that BIS will also be looking to give more effective enforcement powers to local authorities in order to help them enforce the reformed street trading and pedlary regime more robustly, whilst respecting the free market provisions of the Directive and defending the business interests of legitimate pedlars and street traders
- 5.9 The consultation closes on Friday 15 February 2013.

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 6.1 The legal implications are identified within the report.

Borough Treasurer

- 6.2 There are no significant financial implications arising from the recommendation in this report.

Equalities Impact Assessment

- 6.3 There are no implications arising from the recommendation in this report.

Strategic Risk Management Issues

- 6.4 There are no implications arising from the recommendation in this report.

7 CONSULTATION

Principal Groups Consulted

- 7.1 The BIS consultation is an open public consultation.

Method of Consultation

- 7.2 The consultation can be found at <http://bis.gov.uk/Consultations/street-trading-pedlary-laws>.

Representations Received

- 7.3 Not applicable.

Background Papers

BIS Consultation: Street Trading and Pedlary Laws – Compliance with the European Services Directive

<http://bis.gov.uk/Consultations/street-trading-pedlary-laws>

Contact for further information

Laura Driscoll, Licensing Team Leader - 01344 352517

laura.driscoll@bracknell-forest.gov.uk

Draft response to street trading and pedlary laws consultation

Q1: Do you agree with the proposed repeal of the Pedlars Acts 1871 and 1881 UK-wide?

Yes No

Comments:

There are currently many persons who abuse the system of pedlary and most of those persons operating within this area under a pedlar certificate are to all intents and purposes street traders who wish to avoid making an application for a street trading consent.

Q2: Do you agree with our proposed new definition of a pedlar for the purposes of the pedlar exemption from the “national” street trading regime in England and Wales?

Yes No

Please fully explain your reasons for agreeing or disagreeing with any element of the proposed definition.

Comments:

In particular, the requirement for a pedlar to keep on the move is key. The proposed size of the receptacle to carry goods seems rather large and we would not want these dimensions to increase.

Q3: If you are a local authority, do you envisage that there might be circumstances in which you would be able to designate a street as a licence/ consent street in relation to established traders but not in relation to temporary traders?

Yes No

Comments:

None

Q4: Do you agree that only one photo needs to be submitted with street trading applications which are made electronically?

Yes No

Comments:

None

Q5: Do you agree with the proposal to replace the mandatory refusal ground? If not, please explain why you do not think that the 1933 Act provides adequate protection and why the minimum age requirement of 17 needs to be retained (see paragraph 1.32).

Yes No

Comments:

None

Q5.1: If you are a local authority, can you indicate the approximate number of applications you would expect to be made from those under 17 years of age?

Comments:

None

Q6: Would it be helpful for BIS to issue guidance on the circumstances in which the discretionary grounds in 3(6) (a), (d), (e) and (f) can be used? (see paragraphs 1.33 and 1.34 above).

Yes No

Comments:

None

Q7: Do you think there are any circumstances in which the existing paragraph 3(6)(b) ground could be used compatibly with the Directive and, if so, please give reasons. (see paragraphs 1.36 - 1.37).

Yes No

Comments:

None

Q7.1: Do you consider that it is necessary to insert a new replacement “suitability” refusal ground into paragraph 3(6)? (see paragraph 1.38)

Yes No

Comments:

There may be occasions on which a street may be deemed as unsuitable for traders due to, for example, ongoing street works.

Q7.2: In relation to this new ground, can you tell us:

(i) In what circumstances you would use this ground and how often?

There may be occasions on which a street may be deemed as unsuitable for traders due to, for example, ongoing street works.

(ii) Whether this ground would produce costs on you as a local authority, or on you as a business and what these costs are likely to be?

Yes No

Comments:

None

Q7.3: Would it be helpful for BIS to issue guidance on the circumstances in which this replacement ground could be used?

Yes No

Comments:

None

Q8: Do you think there are any circumstances in which either of these grounds could be used compatibly with the Directive in relation to temporary traders? (see paragraphs 1.39 -1.42)

Yes No

Comments:

None

Q8:1: Do you think it would be preferable to pursue our proposed approach of expressly preventing the grounds from being used in relation to temporary traders or to repeal the grounds completely?

Yes No

Comments:

None

Q8.2: Will local authorities continue to use these grounds in relation to established traders?

Yes No

Comments:

This approach could be justified if there are other persons wishing to trade in the same areas on a greater number of days each week than the number for which the applicant wishes to trade.

Q8.3: Do you foresee any difficulties with our proposals to limit the circumstances in which these grounds could be used in relation to established traders?

Yes No

Comments:

None

Q9: Do you foresee any problem resulting from the proposed repeal of paragraph 3(8) of Schedule 4 to the LG(MP)A? (see paragraph 1.43)

Yes No

Comments:

None

Q9.1: Do you agree with our assumption that those who may benefit from this provision are more likely to be UK nationals than nationals of other Member States?

Yes No

Comments:

None

Q10: Do you foresee any problems with our proposal to give local authorities flexibility to grant licences for longer than 12 months or indefinitely? (see paragraphs 1.44 – 1.47)

Yes No

Comments:

None

If you are a local authority can you further tell us

Q10.1: Whether lengthening the duration of licences would have a positive, negative or neutral impact on the ability of new street traders to obtain licences to trade in your licence streets?

Comments:

Neutral impact provided we retain a level of control in respect of authorisations to trade in the street.

Q10.2:

(i) Whether you are likely to issue licences for more than a 12 month period of indefinitely?

(ii) If you are likely to issue licences for a defined period which is longer than 12 months, what period you are likely to choose?

Comments:

It is not known whether there will be demand for this, but this can be considered by the Council in due course.

Q11: Would it be helpful for BIS to issue guidance as to how the PSR may affect a local authority's ability to use some or all of the revocation grounds contained in paragraphs 5(1)(a) to (c) in relation to established traders/temporary traders? (see paragraphs 1.48 – 1.50)

Yes

No

Comments:

None

Q11.1: Do you think there are circumstances in which the paragraph 5(1)(d) ground could be used compatibly with the Directive in relation to temporary traders?

Yes

No

Comments:

None

Q11.2: (i) Do you think it would be preferable to pursue our proposed approach of expressly preventing that ground from being used in relation to temporary traders or to repeal the ground completely?

Yes No

(ii) Will local authorities continue to use that ground in relation to established traders?

Yes No

Comments:

This approach could be justified if there are other persons wishing to trade in the same areas on a greater number of days each week than the number for which the applicant wishes to trade.

Q11.3: Do you foresee any difficulties with our proposals to limit the circumstances in which that ground can be used in relation to established traders?

Yes No

Comments:

None

Q12: Do you foresee any problems with our proposals -

To disapply regulation 19(5) of the PSR where a mandatory ground for refusal of the application exists; or

Yes No

None

To leave it to local authorities to decide whether to put arrangements in place to disapply the regulation in other circumstances, or to specify what conditions will automatically attach to a licence which is deemed to have been granted under regulation 19(5)? Please give reasons for your views (see paragraphs 1.51 – 1.53)

Yes No

Comments:

None

Q13: Do you foresee any problems with our proposals to allow local authorities to relax the prohibition in paragraph 7(7) in its entirety where appropriate? (see paragraphs 1.54 - 1.57)

Yes

No

Comments:

None

Q14: Do you foresee any problems with our proposals to amend paragraph 10(1)(d)? (See paragraph 1.59)

Yes

No

Comments:

None

Q15: Please can local authorities tell us about any other local Acts regulating street trading which are not listed at Annex B of this document (or any Acts listed in Annex B which have in fact been repealed).

Comments:

Not applicable

Q15.1: Please can local authorities tell us-

(i) whether having screened your local street trading Acts for compliance with the Directive, amendments /repeals need to be made to that legislation;

(ii) if such amendments/ repeals are needed whether you wish us to include them in our regulations.

Comments:

Not applicable

Q16: Please can local authorities tell us-

(i) what consequential amendments are needed to the provisions listed in Annex C as a result of the repeal of the Pedlars Acts (and provide appropriately drafted provisions);

(ii) whether any consequential amendments are needed to other provisions of local Acts as a result of the repeal of the Pedlars Acts (and, if so, provide appropriately drafted provisions);

(iii) if any of the provisions listed in Annex C are no longer in force.

Comments:

Not applicable

Question 17: Can local authorities tell us-

(i) what consequential amendments are required to the provisions of local Acts listed above at paragraph 1.73 as a result of our proposed amendments to Schedule 4 to the LG(MP)A, and provide appropriately drafted provisions?

(ii) whether (and, if so, what) consequential amendments are required to any other provisions of local Acts as a result of our proposed amendments to Schedule 4 to the LG(MP)A (and again provide appropriately drafted provisions)?

Comments:

Not applicable

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**TO: LICENSING AND SAFETY COMMITTEE
10 JANUARY 2013**

**HOME OFFICE CONSULTATION ON ALCOHOL STRATEGY
Director of Environment, Culture and Communities**

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to allow the Committee an opportunity to contribute to the Council's response to the Home Office consultation in respect of the Government's Alcohol Strategy. The nature of the proposals is such that the final response needs to incorporate the views of other service areas. This report looks at the proposals in so far as they relate to the terms of reference to this Committee.

2 RECOMMENDATION

- 2.1 That, having regard to this Committee's terms of reference, the Committee considers and comments on the draft answers as at Annex A, for inclusion within the final response of the Council.**

3 REASONS FOR RECOMMENDATION

- 3.1 There are a number of matters included within the consultation which could impact on the licensing process carried out within the Council.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The Committee can amend the draft response at Annex A. There is no obligation to respond to the proposals.

5 SUPPORTING INFORMATION

- 5.1 Following on from recent changes to the Licensing Act 2003 brought about in particular by the Police Reform and Social Responsibility Act 2011, the Home Office has released a consultation to look at further work to tackle drink-fuelled antisocial behaviour and crime.

- 5.2 In the Ministerial foreword to the consultation, the Home Secretary Theresa May explains that the consultation focuses on five key areas as follows:

- i) A ban on multi-buy promotions in shops and off-licences to reduce excessive alcohol consumption;
- ii) A review of the mandatory licensing conditions, to ensure that they are sufficiently targeting problems such as irresponsible promotions in pubs and clubs;
- iii) Health as a new alcohol licensing objective for cumulative impact policies so that licensing authorities can consider alcohol related health harms when managing the problems relating to the number of premises in their area;
- iv) Cutting red tape for responsible businesses to reduce the burden of regulation on responsible businesses while maintaining the integrity of the licensing system; and,
- v) Minimum unit pricing, ensuring for the first time that alcohol can only be sold at a sensible and appropriate price.

- 5.3 The consultation comments on heavily-discounted alcohol and the change in behaviour so that increasing numbers of people 'pre-load' before going on a night out. The proposed ban on multi-buy promotions in the off-trade and minimum unit pricing aim to

reduce availability of alcohol sold at irresponsible prices and excessive alcohol consumption.

5.4 Of particular interest is the consideration of how unnecessary regulatory burdens on business can be reduced or removed, with proposed changes as follows:

- Changing the licensing process for business making minimal alcohol sales
- Amending the temporary event notice process
- Giving local areas flexibility on licensing of late night refreshment
- Removing the requirement to advertise applications in a newspaper
- Removing the requirement to renew personal licences

5.5 Currently, businesses where the sale of alcohol is only a small part of, or incidental to, wider activities, and occurs alongside the provision of another product or service are required to be licensed in the same way as a pub or supermarket. Examples would be guesthouses which provide a bottle of wine in a guest's room, hairdressers which provide a glass of wine to customers and florists which deliver wine with a bouquet of flowers. The consultation looks at options to reduce the burden on these 'ancillary sellers' such as removing the requirement for a personal licence holder to be a Designated Premises Supervisor for the premises, or removing the need for a premises licence and replacing it with an 'ancillary sales notice' (ASN). The process of obtaining an ASN would be quicker, simpler and cheaper than for a premises licence to reflect the limited form of alcohol sales that would be taking place and could potentially work in a similar way to a TEN but with an ongoing authorisation.

5.6 The consultation also looks at whether there is scope to allow licensing authorities to determine their own, less burdensome, TEN processes if they wish, for example by allowing holders of community events to send an email to the licensing authority. It also proposes an increase from 12 to either 15 or 18 TENs per premises per calendar year.

5.7 The document also proposes to introduce local discretion on whether late night refreshment should be licensable, or whether certain types of premises within a local authority area can be exempted from licensing.

5.8 The deadline for responses to the consultation is 6 February 2013.

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

6.1 The legal implications are identified within the report.

Borough Treasurer

6.2 There are no significant financial implications arising from the recommendation in this report.

Equalities Impact Assessment

6.3 There are no implications arising from the recommendation in this report.

Strategic Risk Management Issues

6.4 There are no implications arising from the recommendation in this report.

7 CONSULTATION

Principal Groups Consulted

7.1 The Home Office consultation is an open public consultation.

Method of Consultation

7.2 The consultation can be found at <http://www.homeoffice.gov.uk/drugs/alcohol-strategy/>.

Representations Received

7.3 Not applicable.

Background Papers

Home Office Alcohol Strategy: A consultation on delivering the Government's policies to cut alcohol fuelled crime and anti-social behaviour

<http://www.homeoffice.gov.uk/drugs/alcohol-strategy/>

Contact for further information

Laura Driscoll, Licensing Team Leader - 01344 352517

laura.driscoll@bracknell-forest.gov.uk

Draft response to consultation

Consultation Question 1: Do you agree that this MUP level would achieve these aims?

A matter for others.

Consultation Question 2: Should other factors or evidence be considered when setting a minimum unit price for alcohol?

A matter for others.

Consultation Question 3: How do you think the level of minimum unit price set by the Government should be adjusted over time?

A matter for others.

Consultation Question 4: The aim of minimum unit pricing is to reduce the consumption of harmful and hazardous drinkers, while minimising the impact on responsible drinkers. Do you think that there are any other people, organisations or groups that could be particularly affected by a minimum unit price for alcohol?

A matter for others.

Consultation Question 5: Do you think there should be a ban on multi-buy promotions involving alcohol in the off-trade?

A matter for others.

Consultation Question 6: Are there any further offers which should be included in a ban on multi-buy promotions?

A matter for others.

Consultation Question 7: Should other factors or evidence be considered when considering a ban on multi-buy promotions?

A matter for others.

Consultation Question 8: The aim of a ban on multi-buy promotions is to stop promotions that encourage people to buy more than they otherwise would, helping people to be aware of how much they drink, and to tackle irresponsible alcohol sales. Do you think that there are any other groups that could be particularly affected by a ban on multi-buy promotions?

A matter for others.

Consultation Question 9: Do you think each of the mandatory licensing conditions is effective in promoting the licensing objectives (crime prevention / public safety / public nuisance / prevention of harm to children)?

In Bracknell Forest, we have not had cause to take action against any licensed premises in respect of breaches of any of the new mandatory licensing conditions that took effect in 2010. Therefore we cannot comment on whether they are effective.

Consultation Question 10: Do you think that the mandatory licensing conditions do enough to target irresponsible promotions in pubs and clubs?

Yes

Consultation Question 11: Are there other issues related to the licensing objectives (prevention of crime and disorder / public safety / prevention of public nuisance / protection of children from harm) which could be tackled through a mandatory licensing condition?

No

Consultation Question 12: Do you think the current approach, with five mandatory licensing conditions applying to the on-trade and only one of those to the off-trade, is appropriate?

Yes

Consultation Question 13: What sources of evidence on alcohol-related health harm could be used to support the introduction of a cumulative impact policy (CIP) if it were possible for a CIP to include consideration of health?

A matter for others.

Consultation Question 14: Do you think any aspects of the current cumulative impact policy process would need to be amended to allow consideration of data on alcohol-related health harms?

A matter for others.

Consultation Question 15: What impact do you think allowing consideration of data on alcohol-related health harms when introducing a cumulative impact policy would have if it were used in your local area? Please provide evidence to support your response.

A matter for others.

Consultation Question 16: Should special provision to reduce the burdens on ancillary sellers be limited to specific types of business, and/or be available to all types of business providing they met key criteria for limited or incidental sales?

We would suggest the provision initially be restricted to specific types of business, and after a certain period of time this be reviewed to ensure the provision has not caused problems. At that point there may be scope to widen the provision to other types of businesses.

Consultation Question 17: If special provision to reduce licensing burdens on ancillary sellers were to include a list of certain types of premises, do you think it should apply to the following?

*Accommodation providers
Hair and beauty salons
Florists
Museums, theatres and cinemas*

We do not feel it would be appropriate to allow theatres and cinemas this provision unless the amount of alcohol was limited to a specified amount.

We do not feel it would be appropriate for this provision to apply to charitable events, without a clearer definition of what types of events would be included.

Consultation Question 18: Do you have any suggestions for other types of businesses to which such special provision could apply without impacting adversely on one or more of the licensing objectives?

No

Consultation Question 19: The aim of a new 'ancillary seller' status is to reduce burdens on businesses where the sale of alcohol is only a small part of their business and occurs alongside the provision of a wider product or service, while minimising loopholes for irresponsible businesses and maintaining the effectiveness of enforcement (see paragraphs 9.2 and 9.3). Do you think that the qualification criteria proposed in paragraph 9.6 meet this aim?

Yes

Consultation Question 20: Do you think that these proposals would significantly reduce the burdens on ancillary sellers?

All of the proposals would reduce the burden on ancillary sellers.

Consultation Question 21: Do you think that the following proposals would impact adversely on one or more of the licensing objectives?

No, provided there is a facility to review the ancillary seller status and impose more restrictive requirements in respect of problem premises.

Consultation Question 22: What other issues or options do you think should be considered when taking forward proposals for a lighter touch authorisation?

See answer to question 21.

Consultation Question 23: Do you agree that licensing authorities should have the power to allow organisers of community events involving licensable activities to notify them through a locally determined notification process?

No

Consultation Question 24: What impact do you think a locally determined notification would have on organisers of community events?

It may create inconsistency of approach and confusion, and local authorities would receive more enquiries about what their locally determined process entails. The current TENs system works fine, although the form could be radically changed and simplified.

Consultation Question 25: Should the number of TENs which can be given in respect of individual premises be increased?

Yes

Consultation Question 26: If yes, please indicate which option you would prefer:

Increase to 15 per year

Consultation Question 27: Do you think that licensing authorities should have local discretion around late night refreshment in each of the following ways?

Determining premises in certain areas are exempt – No

Determining that certain premises types are exempt in their local area – No

Consultation Question 28: Do you agree that motorway service areas (MSAs) should receive a nationally prescribed exemption from regulations for the provision of late night refreshment?

Yes

Consultation Question 29: Please describe any other types of premises to which you think a nationally prescribed exemption should apply.

None

Consultation Question 30: Do you agree with each of the following proposals?

Remove requirement to advertise licensing applications in local newspapers – Yes

Remove prohibition on sale of alcohol at MSAs – Yes

Remove prohibition on sale of alcohol at MSAs with overnight accommodation – Yes

Remove or simplify requirements to renew personal licences – Simplify only (not remove)

Consultation Question 31: Do you think that each of the following would reduce the overall burdens on business?

Remove requirement to advertise licensing applications in local newspapers – Yes

Remove prohibition on sale of alcohol at MSAs – Yes

Remove prohibition on sale of alcohol at MSAs with overnight accommodation – Yes

Remove or simplify requirements to renew personal licences – Yes

Consultation Question 32: Do you think that the following measures would impact adversely on one or more of the licensing objectives?

Remove requirement to advertise licensing applications in local newspapers – No

Remove prohibition on sale of alcohol at MSAs – No

Remove prohibition on sale of alcohol at MSAs with overnight accommodation – No

Remove or simplify requirements to renew personal licences – No

Consultation Question 33: In addition to the suggestions outlined above, what other sections of or processes under the 2003 Act could in your view be removed or simplified in order to impact favourably on businesses without undermining the statutory licensing objectives or significantly increasing burdens on licensing authorities?

The TEN form should be reduced to the basic details in order to simplify the process.

Consultation Question 34: Do you think that the Impact Assessments related to the consultation provide an accurate representation of the costs and benefits of the proposals?

Yes

Consultation Question 35: Do you have any comments on the methodologies or assumptions used in the impact assessments? If so please detail them, referencing clearly the impact assessment and page to which you refer.

No

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TO: LICENSING AND SAFETY COMMITTEE
10 JANUARY 2013

THE MOBILE HOMES BILL
Chief Officer: Environment and Public Protection

1 INTRODUCTION

- 1.1 The Mobile Homes Bill is a private members' bill that was introduced to address the growing concerns around what were perceived as rogue practices by caravan park owners. The opportunity was also taken to update the Caravan Sites and Control of Development Act 1960 under which the licensing of sites is required and controlled.
- 1.2 The Bill has now reached the House of Lords and it is widely expected to have cross party support and receive Royal Assent in the New Year.

2 SUPPORTING INFORMATION

- 2.1 The Mobile Homes Bill proposes amendments to the Caravan Sites and Control of Development Act 1960, Caravan Sites Act 1968 and the Mobile Homes Act 1983. These pieces of legislation have formed the basis of control and protection for a form of housing which is becoming increasingly popular with the over 50's, those in retirement and younger families that cannot get into the traditional housing market. There have been calls for a number of years for additional protection for residents who sometimes invest large sums in such properties, often at a time in their lives when some will require greater support and protection.
- 2.2 The Council is responsible for the licensing of caravan sites and Bracknell Forest has 16 such sites with 984 homes on those sites. The Council applies conditions to the licence on those sites to protect and maintain the safety, privacy and way of life of those residents. Officers will in addition, on a risk based assessment, audit sites to check compliance with those conditions. Where non compliance is found we will work with the site owner to remove it. This can be a long and arduous process dependent upon the co-operation shown by a site owner.
- 2.3 The Caravan Sites and Control of Development Act 1960 will be amended in the following ways:
1. For the first time, a local authority will be able to determine a charge for the issue, variation and transfer of licences. In addition, an annual licence fee will be chargeable to meet the costs of the Council in enforcing the Act. The Council should not make a profit from these fees. The council will have to develop, agree and publish a fees policy when setting or revising fees, and it is expected that this will most likely come before this Committee for comment and approval.
 2. The Act will be amended to bring in a new process to deal with breach of licence conditions. This process which is delivered through Compliance Notices is successfully used in other legislation and provides the Council with a range of options should actions required of the site owner not be completed within set timeframes. These options include prosecution, recovery of expenses, and power for the local authority to undertake work, recover costs and to undertake emergency action to correct non compliance if there is an imminent risk of serious harm.

3. The method of appeal by a site owner against the actions of a local authority has traditionally been through the Magistrates Court. To help reduce cost and speed up this process, in many cases an appeal will be taken to the Residential Property Tribunal.
 4. There is a new requirement for the Manager of a site to pass a fit and proper person test and is introduced alongside a register of fit and proper persons.
 5. The local authority will become the holder and publisher of the “site rules” set by the site owner for residents.
 6. The protection presently offered to residents against eviction and harassment has been extended to include protection against the provision of false information. This includes a new offence of providing information, or the making of a representation which is ‘false or misleading’. Staff within Regulatory Services will be charged with investigating such offences.
- 2.4 Much of the detail is dependent upon the regulations which will set the framework within which controls will operate. At present draft regulations have not been issued for consultation but are likely to follow once the Bill has cleared the House of Lords process. It is anticipated that the vast majority of provisions are unlikely to come into effect until either October 2013 or April 2014 if the Government follows the normal implementation process.

Contact for further information

Robert Sexton, Head of Regulatory Services - 01344 352580

robert.sexton@bracknell-forest.gov.uk

**TO: LICENSING AND SAFETY COMMITTEE
10 JANUARY 2013**

**HOUSE TO HOUSE COLLECTIONS INFORMATION
Director of Environment, Culture and Communities**

1 INTRODUCTION

- 1.1 The purpose of this report is to make the Committee aware of the information available to the public in respect of house to house collections which take place in Bracknell Forest.

2 SUPPORTING INFORMATION

- 2.1 House to house collections for a charitable purpose (i.e. a charity or similar good cause) are required to be licensed by the local authority, unless an exemption order has been granted to the charity in question. These are granted by the Cabinet Office to certain larger charities, such as the British Heart Foundation and Cancer Research UK.
- 2.2 The Council receives between 10 and 20 applications for house to house collections licences each year. There is no fee payable for this type of licence.
- 2.3 On the Bracknell Forest Council website, members of the public can access a list of holders of exemption orders. They can also access a list of the licences issued for collections in 2012-2013, along with confirmation of the amount raised by that collection and the total amount of proceeds which went to the named charity. This information can be found at: <http://www.bracknell-forest.gov.uk/licencehousetohousecollections>.
- 2.4 In January 2012 a new guideline figure was set by the Committee in respect of the percentage of proceeds from house to house collections that should be applied for charitable purposes. Each application is judged on its individual merits but the figure was set at 80% to ensure that excessive amounts would not be used to cover the costs of the collection. It is estimated that since the guideline figure was brought in, around five applications have been refused. None of those applicants that have been refused have chosen to exercise their right of appeal to the Cabinet Office.

Background Papers

House to House Collections Act 1939

House to House Collections Regulations 1947

Contact for further information

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**LICENSING PANEL
15 OCTOBER 2012
2.23 - 3.53 PM**

Present:

Councillors Brunel-Walker (Chairman), Allen and Kensall

In attendance:

Simon Bull, Legal Adviser to the Panel
Maria Dillon, Environmental Health Officer
Laura Driscoll, Licensing Team Leader
Amanda Roden, 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. Application to Vary a Premises Licence - Rose and Crown, High Street, Sandhurst, Berkshire. GU47 8HA

The Panel carefully considered all the information presented, both written and oral, from:

- the Licensing Team Leader who outlined the issues;
- the applicant's representatives, Mr Evans and Mr Fisher, and Mr Smith from Smith Coldham Design Limited.
- the interested parties (2) who submitted oral and written representations. There had been four other written representations, but these had been withdrawn after mediation.

together with reference to the appropriate Licensing Objective: The Prevention of Public Nuisance, particularly noise nuisance, the Council's own Licensing Policy and the Secretary of State's guidance. At the conclusion of the proceedings all participants present confirmed that they had been given the opportunity to say all they wished to say.

The Panel noted that there had been no representations made by the Police or the Fire Authority. A representation had been made by Environmental Protection at Bracknell Forest Council. The application initially included a proposal to remove a condition from the licence but this proposal was removed and the condition was subsequently retained. This amendment had addressed the concern raised by Environmental Protection and this representation was withdrawn.

There had been eight complaints regarding the Rose and Crown in the last two years and eight months but Bracknell Forest Council had no record of receiving any noise complaints since January 2011.

The Panel noted that Punch Taverns were planning to change the use of the Rose and Crown to a mid market premises and include more seating along with a more varied food menu. Tenants had been sought to run the premises to this remit. The live entertainment would be more acoustic in future, rather than rock music and the premises was being refurbished to incorporate this new image.

The Panel decided that granting the variation to the licence would promote the four licensing objectives, and agreed to grant the variation to the Licence subject to the four additional conditions, 34 to 37, suggested during mediation, and the two extra voluntary conditions, 38 to 39, proposed at the hearing, as follows:

Additional Conditions:

34) The licensee shall ensure that comfort cooling is installed and maintained in the form of one cooling unit.

35) The licensee shall ensure that the external walls along the green line marked on the plan were soundproofed.

36) The licensee shall ensure that secondary glazing is installed and maintained to all external windows on the red line marked on the plan with a gap between interior and exterior glass of minimum 25mm.

37) The licensee shall ensure that the interior panel of the secondary glazing is closed when regulated entertainment is taking place within the premises.

38) A notice shall be displayed in the rear decking area asking customers to respect the neighbours and keep noise to a reasonable level.

39) A complaint book shall be implemented and maintained containing details of any complaint received, including date and times, and the details of any remedial actions taken. This book shall be available for inspection at all times by all responsible authorities.

In summary, the Panel decided to agree the variation of the premises licence subject to the additional licensing conditions above.

CHAIRMAN