



## **NOTICE OF MEETING**

### **Licensing and Safety Committee**

**Thursday 11 June 2015, 7.30 pm**

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

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

Councillor Allen (Chairman), Councillor Thompson (Vice-Chairman), Councillors Dr Barnard, G Birch, Brossard, Brunel-Walker, Finch, Finnie, Ms Gaw, Leake, Mrs McCracken, Mrs McKenzie, Ms Miller, Porter and Tullett

ALISON SANDERS  
Director of Corporate Services

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Published: 29 May 2015



**Licensing and Safety Committee**  
**Thursday 11 June 2015, 7.30 pm**  
**Council Chamber, Fourth Floor, Easthampstead House,**  
**Bracknell**

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**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 9 October 2015 and 27 May 2015.

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

6. **Health and Safety Plan**

To consider a report setting out the Council's Health and Safety Plan and its associated action plan.

7 - 34

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| 7.  | <b>Annual Service Plan</b><br>To consider a report setting out the activities carried out by the Licensing Section during the period 1 April 2014 to 31 March 2015 and the proposed work plan for the period 2015/16.   | 35 - 44   |
| 8.  | <b>Review of Statement of Licensing Policy</b><br>To receive a report setting out the proposed timetable to review the Council's Statement of Licensing Policy under the Licensing Act 2003.  | 45 - 80   |
| 9.  | <b>Review of Statement of Gambling Principles</b><br>To receive a report setting out the proposed timetable to review the Council's Statement of Gambling Principles.   | 81 - 116  |
| 10. | <b>Review of Guidance Notes and Conditions for Hackney Carriage and Private Hire Vehicle Owners, Operators and Drivers</b><br>To consider a report detailing the results of the recent consultation on the proposed amendments to the Council's Guidance Notes and Conditions for Hackney Carriage and Private Hire Vehicle owners, operators and drivers and to seek approval of the amended document. | 117 - 186 |
| 11. | <b>Criminal Convictions Policy</b><br>To consider a report examining the criminal convictions element of the 'Fit & Proper' test as currently applied for drivers of Hackney Carriages and Private Hire vehicles and the proposed development of a focussed stand alone policy for Bracknell Forest.  | 187 - 208 |
| 12. | <b>Fees for Licensing of Private Hire Vehicle Operators</b><br>To consider a report detailing forthcoming amendments to the licensing of operators of private hire vehicles, and to seek approval for a new set of fees which will be required as a result.   | 209 - 212 |
| 13. | <b>Taxi and Private Hire Vehicles Licensing Councillor Handbook</b><br>To receive a report containing a copy of the Taxi & Private Hire Vehicles Licensing Councillor Handbook issued by the Local Government Association.  | 213 - 256 |

**Information Items**

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| 14. | <b>Licensing Act Deregulation Update</b><br>To receive a report providing an update on the deregulation of activities previously licensable under the Licensing Act 2003. | 257 - 258 |
| 15. | <b>Exclusion of Public and Press</b><br>To consider the following motion:<br><br>That pursuant to Section 100A of the Local Government Act 1972, as                       |           |

amended, and having regard to the public interest, members of the public and press be excluded from the meeting for the consideration of the following item which involves the likely disclosure of exempt information under the following category of Schedule 12A of that Act:

- (3) Information relating to the financial or business affairs of any particular person (including the authority holding the information)

**16. Appeal to Magistrates' Court**

To receive a report providing an update on a recent appeal to the Magistrates' Court following the Council's refusal of an application to extend a premise's opening hours.

259 - 262

**LICENSING AND SAFETY COMMITTEE  
9 OCTOBER 2014  
7.30 - 8.10 PM**



**Present:**

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

**Apologies for Absence were received from:**

Councillor Mrs Barnard

**17. Declarations of Interest**

There were no declarations of interest.

**18. Minutes**

**RESOLVED** that the minutes of the Licensing and Safety Committee held on 12 June 2014 be approved as a correct record and signed by the Chairman.

Matters Arising:

*Minute 8, Taxi Ranks Yorktown Road, Sandhurst:*

Members reported that the signs at the taxi rank on Yorktown Road had not been removed. Officers agreed to look into this.

*Minute 9, Authorised Garages for Testing of Licensed Vehicles*

It was reported that eight firms had submitted completed questionnaires with a view to becoming authorised garages. An analysis of the responses would be completed shortly.

*Minute 16, Licensing Panel Minutes:*

It was reported that the appeal lodged by McDonalds would be heard on 10 November 2014.

**19. Urgent Items of Business**

There were no urgent items of business.

**20. Notice of Public Speaking**

It was noted that no members of the public had registered to speak at the meeting.

**21. Fees and Charges**

The Committee considered a report that set out the current and proposed fees for Licensing matters for 2015-16. Members noted that some charges had not increased

as the cost of administering these matters for the Council had remained unchanged. It was also noted that fees for scrap metal dealers had only recently been introduced.

It was **RESOLVED** that;

- i) except for the hackney carriage vehicle and private hire operator vehicle licence fees, that the Committee recommended to the Executive that the new fees and charges detailed in Annex A of the agenda papers be put forward for public consultation.
- ii) the Committee agreed that the proposed charges for operators and vehicle licence fees were:
  - a) advertised;
  - b) if no objections were received, implemented for any licences commencing from 1 April 2015; or
  - c) if objections were received that they be considered by the Committee at the meeting on 8 January 2015.

## 22. **Annual Review of Hackney Carriage and Private Hire Guidance Notes**

The Committee considered a report that sought approval to go out to consultation on amendments and additions to the Council's Guidance Notes and Conditions for Hackney Carriage, Private Hire Vehicle Owners, Operators and Drivers.

It was **RESOLVED** that the Committee;

- i) approved the amendments and additions to the Guidance Notes and Conditions document as set out in Annex A of the agenda papers for consultation and
- ii) required officers to bring back a report to the next meeting on the results of that consultation.

## 23. **Park Homes Licence Fee**

The Committee considered a report that proposed the approval of fees applicable to the Licensing of Caravan Sites within Bracknell Forest which took due account of the consultation undertaken.

In response to Members concerns around the low response to the consultation, officers reported that they had spoken directly with residents, notices had been displayed at caravan sites and all site owners had been written to. The consultation was also available on the Bracknell Forest website portal. It seemed that most residents were aware of the changes being proposed.

It was **RESOLVED** that the Committee approved the fees, reasoning and methodology as set out in Annex A of the agenda papers and that implementation of these new fees would be from 10 October 2014, with the exception of the Annual Fee which would come into effect on 1 April 2015.

## 24. **Street Trading Policy: Request to Establish a Working Group**

The Committee considered a report that proposed that a small sub-group of two or three committee members be established to work with officers to review current practice and consider whether any revisions were necessary to street trading policy in

Bracknell Forest. If any revisions were proposed, these would be submitted to the Committee for approval.

It was **RESOLVED** that a small sub-group be established to consider existing custom and practice with a view to producing an updated Policy for consideration by the Committee. The Chairman and Vice-Chairman would be responsible for establishing the membership of this sub-group. Early expressions of interest were received from the following Members: Councillors Allen, Brunel-Walker, Gbadebo, Porter, Finch, Finnie, Leake and Thompson.

25. **Hackney Carriage Surcharge Update**

The Committee noted the information report.

26. **Air Quality Feedback from DEFRA**

The Committee noted that Downshire Way continued to be recognised as an area that needed to be kept under review in terms of air quality. Officers reported that there was currently a programme in place to improve traffic flow around the borough, this was a two year programme and it was anticipated that it would positively impact the air quality around Downshire Way.

27. **Licensing Panel Hearings**

The Committee noted the minutes of the Licensing Panel held on 6 August 2014.

**CHAIRMAN**

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**LICENSING AND SAFETY COMMITTEE  
27 MAY 2015  
8.36 - 8.37 PM**



**Present:**

Councillors Allen (Chairman), Thompson (Vice-Chairman), Dr Barnard, G Birch, Brossard, Brunel-Walker, Finch, Finnie, Ms Gaw, Leake, Mrs McCracken, Mrs McKenzie, Ms Miller, Porter and Tullett

**1. Election of Chairman**

**RESOLVED** that Councillor Allen be appointed Chairman of the Licensing and Safety Committee for the Municipal Year 2015 - 2016.

**COUNCILLOR ALLEN IN THE CHAIR**

**2. Appointment of Vice-Chairman**

**RESOLVED** that Councillor Thompson be appointed Vice-Chairman of the Licensing and Safety Committee for the Municipal Year 2015 - 2016.

**3. Appointment of Licensing Panels - Sub-Committee of Licensing and Safety Committee**

**RESOLVED** that:

- i) Membership of Licensing Panels be any three councillors drawn, as required, from the membership of the Licensing and Safety Committee.
- ii) The Appointment of the Licensing Panel Chairmen be any councillor who has completed the Chairman training drawn, as required, from the membership of the Licensing and Safety Committee.

**CHAIRMAN**

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**TO: LICENSING AND SAFETY COMMITTEE**  
**11 JUNE 2015**

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**HEALTH AND SAFETY LAW ENFORCEMENT PLAN 2015-2016**  
**Chief Officer: Environment and Public Protection**

**1 PURPOSE OF REPORT**

- 1.1 The Council has responsibility for ensuring the health and safety of most of the working population of this Borough.
- 1.2 This report sets out the basic framework within which the Council seeks to enable businesses to comply with their obligations. It sets out the tasks undertaken during a 'typical' year. The Work Plan (Annex A) sets out the proposal for the delivery of our legal obligations. The Plan is required in order to comply with Section 18 of the Health and Safety at Work etc Act 1974 and the objective is to ensure that national and local priorities and standards are achieved. A key priority for the officers is to try to ensure that businesses apply appropriate and proportionate measures to the need in hand.

**2 RECOMMENDATION**

- 2.1 **That the Committee notes the work undertaken in 2014/15 and approves the proposed plan for 2015/16**

**3 REASONS FOR RECOMMENDATION**

- 3.1 The Plan sets out how the Council will work with and support businesses to comply with health and safety requirements and legislation.

**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 Health and Safety Executive (HSE) and Local Authorities. Within Bracknell Forest enforcement is a function of Regulatory Services. As at 1 April 2015, there are 1,522 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 as an operational indicator and the Council's performance in relation to health and safety enforcement is reported annually to the Health and Safety Executive. The Executive has powers to intervene should the Council not perform its duties at a satisfactory level.
- 5.3 Certain actions within a work place can pose an immediate risk to personal safety or may have the potential for longer term negative impacts upon the health of a person. This not only impacts upon an individual but also on society as a whole which may have to fund the treatment, care and support of the injured person. Delivery of effective health and safety within a work place therefore has a significant positive impact upon public health.

- 5.4 Regulation can pose a burden upon business and therefore not only must regulation be appropriate, proportionate and necessary, it must also be applied in a similar manner. In a difficult economic climate we need to encourage and assist business to grow and our actions should be focussed upon supporting growth. We look to direct our limited resources to those areas of greatest concern in terms of public health, taking into account factors such as risk, consequence, and severity.
- 5.5 Assessment of risk is therefore imperative when drawing up our work plan. Data on accidents within the work place is collected and such data assists in risk assessment and points us towards those matters which should be a priority for us. We will therefore be focussing our efforts this year upon those areas where the evidence is strongest that risks are posed to the Bracknell Forest community. We will work with our colleagues in Public Health to seek to exploit the new opportunities arising from the changes in order to try to improve the capture and analysis of workplace accident and sickness data from existing and new sources.
- 5.6 As in previous years the Committee are asked to consider the Plan so they can assure themselves that key needs are being met. 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. 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 accident data combined with local intelligence and direction from the HSE. Visits to businesses will where appropriate encompass multiple regulatory functions in order to seek to minimise the burden to a business. The work includes reactive accident and complaint investigations as well as anticipated requests for advice from businesses.
- 5.7 Consultation with stakeholders is an ongoing process and we will publish our Plan on our website to facilitate this. We invite feedback through out the year so as to inform the Work Plan for future years. We have had no feedback on last year's plan that needs to be taken into account.
- 5.8 To put the volume of work associated with its delivery into context, we commit circa 1.5 FTEs (Officers) to this function, the officers conducting such work are not dedicated to that function but have a wide range of other duties. During 2014/15, some 390 proactive interventions with business were undertaken, 221 enquiries were received and a further 109 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 2015-2016 is covered by the overarching document entitled Enforcement Policy 2015 and Equalities Impact Assessment.

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.

Representations Received

- 7.3 Not applicable.

Background Papers

HSC Strategy for Workplace Health and Safety in Great Britain to 2010 and Beyond – (Securing Health Together – SH2) <http://www.hse.gov.uk/strategy/strategy09.pdf>  
National Local Authority Enforcement Code (referred to as Section 18 guidance). <http://www.hse.gov.uk/lau/la-enforcement-code.htm>  
HELA Circular Number 67/2 (Rev 4) Advice to Local Authorities in Inspection Programmes and an inspection rating system <http://www.hse.gov.uk/lau/lacs/67-2.htm>

Contact for further information

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**HEALTH AND SAFETY LAW ENFORCEMENT  
PLAN 2015 - 2016**

**(inc 2014 – 2015 OUTTURN)**

**Regulatory Services  
Environment, Culture and Communities Department  
Bracknell Forest Council  
Time Square  
Market Street  
Bracknell  
RG12 9JD**

**Tel: 01344 352000  
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# PART 1 – THE PLAN FOR 2015 - 2016

## 1. Introduction

### Our Vision

The annual Health and Safety Law Enforcement Plan is designed to work within the Bracknell Forest Community Plan to help deliver the Council's priorities. The Council's vision is:

**“To make Bracknell Forest a place where all people can thrive; living, learning and working in a clean, safe and healthy environment”**

The health and safety work that we do primarily falls within the scope of Priorities Four (Create a Borough where people are, and feel, safe) and Five (Sustain economic prosperity). More specifically Medium Term Objectives six (Support opportunities for health and wellbeing), eight (Work with police and other partners to ensure Bracknell Forest remains a safe place) and nine (Sustain the economic prosperity of the Borough) provide the main focus for our work. The plan itself provides a golden thread for each service priority identified, to enable it to be traced directly up to our Vision.

Our Health and Safety Law Enforcement Plan aims to ensure a graduated approach based on risk to public health, including both employees and others who may be affected by the operation of a business such as customers. It reaffirms our commitment to carry out our duties in an open and fair manner, protecting employees and the wider public, and supporting business and economic development. In doing so, at its core sits five basic principles:

- Targeting – taking a risk based approach
- Proportionality – only intervening where necessary
- Accountability – able to explain and justify service levels and decisions
- Consistency – apply standards consistently to all
- Transparency – open and user-friendly

We recognise that most businesses want to comply with the law; therefore we want to support and enable businesses to meet their legal duties, providing a level playing field without unnecessary expense. However, firm action, including prosecution, will be taken where appropriate in accordance with the national Regulators Code and our Enforcement Policy.

This Health and Safety Law Enforcement Plan sets out the actions we are taking to promote health and safety for the benefit of local residents and employees and those who operate their business within our Borough.

The Council is responsible for health and safety under The Health and Safety at Work etc. Act 1974 and the associated Regulations. We advise on and enforce health and safety in **1522** premises including offices, shops, leisure sites, catering premises and hotels. The Health and Safety Executive (HSE) produces formal guidance under Section 18 of the Health and Safety at Work etc. Act 1974<sup>1</sup>. This guidance shapes the work of all Local Authorities in relation to health and safety and the HSE may potentially audit Local Authorities on their health and safety enforcement activities.

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<sup>1</sup> The National Local Authority Enforcement Code. Available at: <http://www.hse.gov.uk/lau/la-enforcement-code.htm>



Bracknell Forest Council's Health and Safety Law Enforcement Plan contains details of:

- what we plan to do this year,
- how we intend to do it, and
- the work we have completed in the previous year

Being mindful of the above priorities, we strive to provide a health and safety enforcement function that is driven by the concept of **sensible risk management**. In practice our key priorities are to:

- provide advice and information to Bracknell Forest businesses and residents
- reduce unnecessary interactions with businesses that consistently meet requirements
- undertake appropriate contacts with business on the basis of risk, reducing the burden on compliant businesses whilst targeting those that seek to gain an advantage from non-compliance
- investigate complaints and accidents and listen and respond to concerns raised; giving priority to those involving significant injury or death in the workplace
- consult our customers upon the quality of our service and key issues
- work in partnership with others to improve our outcomes for Bracknell Forest; for example the Health & Safety Executive, Public Health England and the Royal Berkshire Fire Service

Whilst this plan specifically deals with the forthcoming financial year of 2015-16, it takes place within the context of the wider agenda and the longer term view. The plan directly links the health and safety law service areas with the identified Regulatory Service Priorities<sup>2</sup>. It is reviewed annually and additionally includes details of the previous years performance; the 2014-15 outturn.

## 2. The National Context to this Plan

In addition to directly linking to other internal Bracknell Forest plans, this health and safety law plan is influenced by the national agenda.

Specific issues that have, and will continue, to impact on the direction of our work include:

### a) Health and Safety Executive Guidance

Bracknell Forest Council is responsible for protecting the health, safety and welfare of employees and members of the public who may be harmed as a result of work activities. However, this duty is shared with the Health and Safety Executive (HSE) depending on the type of work premises and the powers of both bodies is detailed in the Health & Safety at Work etc. Act 1974 and associated Regulations.

The HSE additionally produces formal guidance that all relevant authorities (both LAs and the HSE) are legally required to be mindful of, referred to as 'Section 18 guidance' as it is produced under Section 18 of the Health and Safety at Work etc. Act 1974. This guidance requires Authorities to make adequate arrangements for enforcement, including details such as service planning, the officer capacity required to enforce in the Borough, the competency of those officers, and the production of an appropriate enforcement plan.

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<sup>2</sup> Details of the Regulatory Service Priorities are provided on page 22

This national guidance, referred to as the 'National Local Authority Enforcement Code', aims to simplify the requirements placed on LAs and also identify high risk sectors that should become the focus of our activities. The code influences our priorities and focuses our activity by minimising full inspections in preference to other types of activity; such as reactive investigations and project work.

## **b) Reducing the Burden on Business**

There is a strong drive from Central Government to reduce the burden upon business and not to undertake inspection or enforcement activities without a specific reason. As an enforcing authority we fully support this view.



The Better Regulation Delivery Office (BRDO) has developed national Priority Regulatory Outcomes<sup>3</sup>, which provide a focal point for all of our regulatory work, including health and safety. This plan directly links the relevant health and safety service areas with these Priority Outcomes.

## **c) Primary Authority Partnerships**

The concept of Primary Authority was formalised under the Regulatory Enforcement and Sanctions Act 2008. Under this legally recognised scheme (overseen by the BRDO), any business operating across more than one Local Authority can form a legally recognised partnership, effectively creating a focus for consistent advice. It is the gateway to simpler, more successful local regulation, and recent changes to the scheme has meant a significant expansion to the range of businesses that can participate, to now include so-called 'Co-ordinated Partnerships', such as franchise operations, trade associations and other business groups.

The impact of partnerships can be huge. A Primary Authority can issue formal advice to its partner business that applies throughout England & Wales regardless of where the outlets are based, and officers must take into account any such guidance or inspection plan. Primary Authority gives business the confidence to expand and grow, knowing that any such regulatory advice they receive is binding on other local authorities.

Inspection plans produced under the scheme have a strong status in law and any proposed deviations must be notified to the Primary Authority. The scheme covers a wide variety of subject areas, now also including Under Age Sales, gambling and sunbeds.

We offer Primary Authority partnerships to businesses wishing to take advantage of the scheme, and all of our health and safety work is undertaken in accordance with the scheme and mindful of any existing partnerships that businesses may have.

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<sup>3</sup> The National BRDO Priority Regulatory Outcomes are detailed on page 22

#### d) **The Independent Regulatory Challenge Panel**

In order to help support business, and challenge the perception that Authorities were placing unreasonable requests upon businesses, the Independent Regulatory Challenge Panel was formed to consider any cases of excessive or unreasonable requirements. Since its inception in 2011 there has been one successful challenge; with no challenges to requirements made by BFC. Further details can be found at: <http://www.hse.gov.uk/contact/challenge-panel.htm>

### 3. **The Local Context**

Within Bracknell Forest Council, the health and safety function is located within Regulatory Services; within the Environment and Public Protection Division of Environment, Culture and Communities. The work is carried out by the Health and Safety Team, which is made up of both Environmental Health and Trading Standards Officers from the Business and Consumer Team, and involves not only general health and safety but additionally firework and petroleum safety. The general aspects of this plan are managed by the Food & Safety Team Leader (Karen O'Connor), and the fireworks and petroleum safety aspects by the Business and Consumer Team Manager (John Nash).

Whilst much of our overall work is guided by the national context, it is refined and shaped locally as we take into account local intelligence and available information. This includes specific local knowledge of the nature and type of businesses within Bracknell Forest, and by utilising data sources such as complaints received, inspection data and reported accidents. By utilising such local sources of information, taking into account the national context, we are able to prioritise our work to ensure best effect with the resources available to us, whilst taking a sensible approach to health and safety. This includes:

- focusing attention towards the real risks, meaning valuable resources are not wasted on the trivial, whilst ensuring that workers and the public are properly protected.
- reducing burdens on those we regulate, meaning that we become a better regulator.
- building our organisation's credibility, providing credible and proportionate advice, whilst ensuring that those who create risks manage them responsibly and understand that failure to manage real risks responsibly is likely to lead to proportionally robust enforcement action.



It is also important to recognise what is not included in our approach to sensible risk management, as it is neither possible nor desirable to try and create a totally risk-free society. For example, we do not restrict important recreational and learning activities for individuals where the risks are managed.

Sensible risk management is about practical steps to protect people from real harm and suffering – not bureaucratic back covering. At every visit or intervention with a business, we offer advice setting out the sensible and proportionate steps to be taken to deal with

workplace risks properly. For example we only undertake full inspections for those premises representing the highest risk, whilst for lower risk operations we provide more support and guidance via information provision and self-assessment activities.

With the incorporation of Public Health into Bracknell Forest Council's remit, key projects, such as Legionella control and risks from contact with animals at open farms provide vital links with this new area of work. We are working with our Public Health colleagues to ensure that such synergies are explored fully with the aim of maximising our collective impact.

#### 4. The Specifics for Health and Safety within Bracknell Forest Borough

Bracknell Forest Council has health and safety responsibilities in respect of **1522** premises in the Borough including offices, shops, warehouses, builders' merchants and services such as hairdressers; as shown in the table below:

Type of Premises	Number of Premises
Retail shops	383
Wholesale shops, warehouses and fuel storage depots	44
Offices	422
Catering, restaurants and bars	270
Hotels, camp sites and other short stay accommodation	24
Residential care homes	29
Leisure and cultural services	127
Consumer services	212
Other premises	11
<b>Total</b>	<b>1522</b>

In comparison with some other districts, Bracknell Forest has low numbers of wholesalers and warehouses, and higher proportions of offices, retail and leisure businesses.

There is no legal requirement for businesses to register with us for general health and safety purposes, and so we are reliant upon officers becoming aware of changes within the district and updates from our colleagues across BFC, such as Business Rates. There are however some specific operations that are required to register, such as cooling towers, special treatments (e.g. tattooing) and those selling fireworks.

Food & Safety Team Officers deal with the main aspects of workplace safety related matters and undertake programmed risk based inspections, reactive inspections, investigate reports of accidents/ill-health under RIDDOR (Reporting of Injuries, Diseases and Dangerous Occurrences Regulations) and respond to enquiries and complaints received. They also provide educational and promotional materials and information to raise the public profile of workplace health and safety, and coordination of enforcement activities within the Berkshire area. Trading Standards Officers have a role related mainly to matters of the safe storage and sale of fireworks and petroleum, undertaking inspections and responding to enquiries and complaints received. Whilst officers generally visit during office hours, this is very dependant upon the operating times of a business. Our flexible working arrangements mean that officers undertake visits both at evenings and over weekend periods in response to when businesses actually operate.

In addition to routine inspection visits, we also prioritise our available resources and undertake alternative enforcement activities. These generally apply to all but the highest risk operations and may be in the form of a self-assessment questionnaire or an advisory visit by a less experienced officer reporting back to fully qualified officers. When such alternative methods are used, any significant problems or concerns identified will always be investigated by fully qualified officers, including a full inspection if appropriate. By taking such alternative approaches we are able to focus our resources towards those higher risk operations, maximising the impact that available officer time can make on protecting the public. We always strive to move the service forward and look for more efficient and effective delivery methods, including minimising the overall number of visits to business by different officers where possible.

## 5. Resources

Our primary resources are our staff. There are currently 1.5 full-time equivalent qualified Environmental Health Officers and 0.2 full-time equivalent Trading Standards Officers who perform aspects of health and safety law enforcement. In total 10 officer posts are involved in issues relating to aspects of health and safety enforcement as part of their day-to-day duties, consisting of:

- 1 x Team Manager
- 1 x Team Leader
- 4 x Environmental Health Officers
- 2.5 x Trading Standards Officers
- 1.5 x Trading Standards Enforcement Officers

The Food & Safety Team officers spend 40% of their time on health and safety related matters. Additionally, 5 Trading Standards Officers have been allocated to undertake fireworks safety work accounting for approximately 4% of their time.

In addition to the work detailed elsewhere in this Plan, officers within the Health and Safety Team represent Bracknell Forest on relevant regional bodies with the aim of sharing good practice, benchmarking and achieving value for money. For example, we are members of the Trading Standards South East Limited (TSSEL) Group which seeks to identify and develop good practice procedures to help enhance the quality and consistency of service provision. We are also members of the Berkshire Health and Safety Liaison group with a key function of co-ordinating the health and safety enforcement function towards a consistent approach across the county. This group periodically also undertakes county wide inter authority audits. Such activities aim to both improve regulatory service provision whilst maximising the effective use of local authority resources.

Officers can be contacted through our Customer Service Centre on 01344 352000 which is open from **8.30am - 5.00pm Monday to Friday**. Whilst officers are based at the Time Square offices on Market Street, Bracknell, officers are not generally office based and messages may well have to be left. Alternatively they can be emailed at [environmental.health@bracknell-forest.gov.uk](mailto:environmental.health@bracknell-forest.gov.uk)



## 6. Departures from the Plan

Departures from the Health and Safety Law Enforcement Plan, reported through Departmental Management Team, will inevitably occur due to the reactive nature of some of the areas of work. However, departures will be kept to a minimum, capable of justification and be fully considered by the Head of Regulatory Services before varying action is taken. With performance additionally monitored via key performance indicators on a monthly basis and via quarterly service reports, comments are added where performance exceeds or fails to meet targets. This information will then be fed back into the development of other service plans.

## 7. Customer Feedback and Quality Monitoring

Procedures are in place to scrutinise all the work that is undertaken by the Health and Safety Team. Our quality monitoring includes detailed practice notes, checks on data entry and officer consistency. We monitor our performance against targets on a monthly basis, via internal Key Performance Indicators (KPIs) including numbers of inspections, visits, etc., and additionally invite customer feedback; during 2014-2015 no formal complaints were received regarding the service. Annually we also undertake an in-house competency assessment for Officers in accordance with Section 18 Guidance issued by the HSE Local Authority Enforcement Liaison Committee (HELA).

We additionally have a web-based survey for all regulatory service customers, both businesses and the general public, and the results help us to ensure we are providing the best possible service to customers within the resources available. The survey is open to anyone having contact with us at:

<http://consult.bracknell-forest.gov.uk/public/eh/regservevaluation>

Paper copies are available to those unable to complete the survey online.

All such monitoring and performance information is fed back into the development of future health and safety and other service plans.

## 8. Staff Development

We aim to make full use of the skills that exist in the Health and Safety Team and to develop those skills through updates, shadowed working and internal and external training. A record of continuous development is maintained for all officers, with all health and safety officers supported to maintain relevant training during the year, in accordance with the Health and Safety Executives requirements.

## 9. Our Performance Outturn for 2014-15

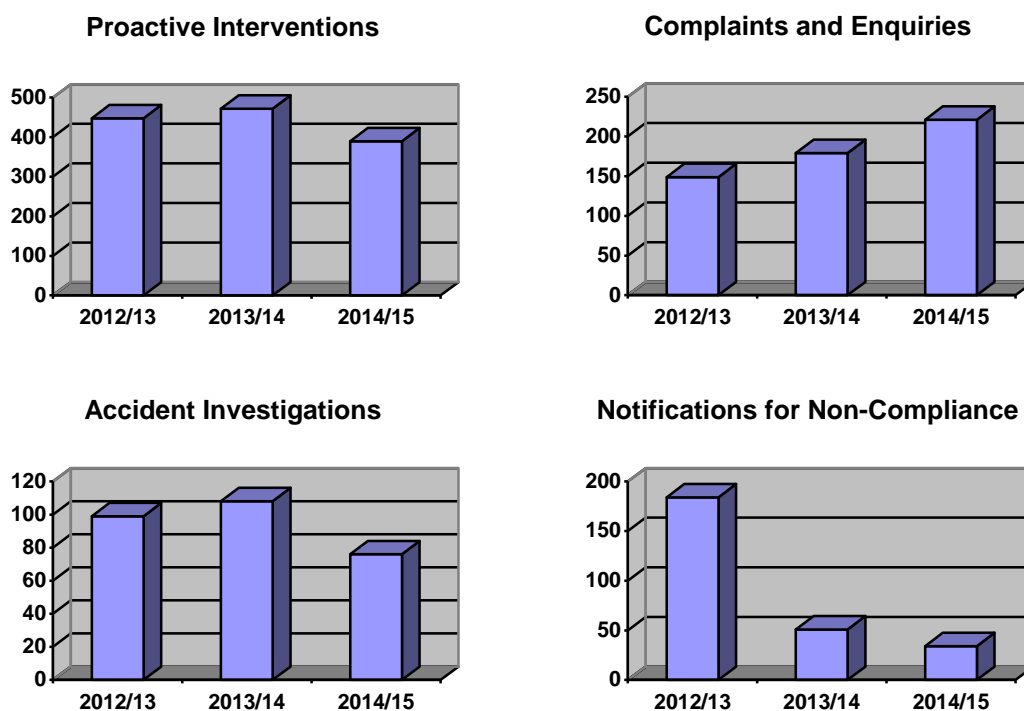
In producing our Health and Safety Law Enforcement Plan each year we reflect on the previous years activities. This process provides the opportunity to identify what went well and what went less well, and identify trends or key areas for focus moving forward. The health and safety law enforcement activity undertaken during 2014/15 is detailed on pages 10 to 16, although in summary we:

- undertook proactive interventions with **390** businesses. This included undertaking **6** full inspections of higher risk businesses, reviewing self-assessment questionnaires returned from **43** medium risk premises, sending relevant health and safety information to a further **286** low risk businesses, and undertaking initial contact visits with **6**. We additionally inspected **24** premises for fireworks safety and **13** premises in relation to petroleum. Of the remaining **12** premises, **3** were inspected

following complaints or accidents and the remaining **9** were found to have ceased trading when we visited.

- carried out **109** other related visits
- responded to **221** enquiries and complaints
- investigated **76** accident notifications
- issued notifications on how businesses can comply with the law to **34** businesses, of which **2** were formal Notices

This activity can be compared with previous years:



## 10. Our Health and Safety Law Enforcement Plan for 2015-16

We recognise that most businesses want to comply with the law; therefore we want to support and enable businesses to meet their legal duties without unnecessary expense. We have moved the emphasis from full inspections of premises purely on a risk based inspection programme to participation in national campaigns and projects tailored to target local and regional priority topics. Full inspections are restricted to those premises where activities represent the highest risk, as determined by national guidance and local intelligence.

Details of planned activities for 2015-16 begin on page 17; however, in summary we plan to undertake the following:

- inspecting health and safety premises on the basis of risk
  - inspect all premises due an intervention with high risk sector activities as identified by the National Local Authority Enforcement Code, and any others which intelligence suggests are high risk (risk rated A); a total of **15** premises.
  - Provide self-assessment questionnaires to **109** medium risk premises, and provide relevant information to **203** lower risk premises
  - Undertake advisory visits or provide relevant information to all businesses previously not risk rated
- focussing our work on priority topics identified by the HSE and carry out topic-based projects



- investigating complaints and concerns over health and safety, including work with other authorities within Berkshire and the South East on issues that cross Local Authority boundaries and affect Bracknell Forest businesses and residents.
- providing advice and information, including:
  - extending our Primary Authority Partnership arrangements
  - providing advice and guidance in response to requests from businesses to help them achieve compliance with legal requirements
  - ensuring the information on our website is up to date and accurate
- consulting our customers and seeking feedback on the quality of our service.

## 11. Concluding Information

This plan is reviewed every year and we welcome your comments and suggestions on how it could be improved further. If you would like further information or would like to speak to an officer for advice, please contact them via any of the following options:

Regulatory Services  
 Environment, Culture & Communities Department  
 Bracknell Forest Borough Council  
 Time Square  
 Market Street  
 Bracknell, RG12 1JD  
 Tel: 01344 352000  
 Fax: 01344 351141  
 Email: [environmental.health@bracknell-forest.gov.uk](mailto:environmental.health@bracknell-forest.gov.uk)  
 Or look on our website at: [www.bracknell-forest.gov.uk/healthandsafetyatworkinvestigation](http://www.bracknell-forest.gov.uk/healthandsafetyatworkinvestigation)

Additionally useful information is available at the following websites:

[www.hse.gov.uk](http://www.hse.gov.uk) -The Health and Safety Executive website, which has an enormous amount of invaluable information on health and safety. This includes specific advice and toolkits to help different types of business achieve compliance. The local HSE office is at:

Priestley House  
 Priestley Road  
 Basingstoke  
 RG24 9NW  
 Tel: 01256 404000  
 Fax: 01256 404100

[www.hse.gov.uk/lau](http://www.hse.gov.uk/lau) -The Health and Safety Executive/Local Authority Enforcement Liaison Committee (HELA) ensures that the health and safety legislation is enforced consistently across Authorities.

<http://www.hse.gov.uk/riddor> - for a full list of reportable specified injuries, diseases and dangerous occurrences and when and how they must be reported.

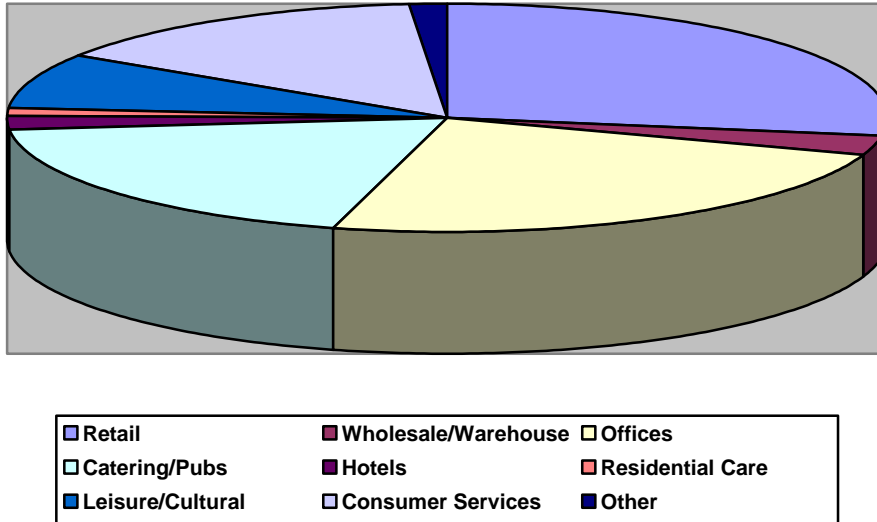


## PART 2 – HEALTH AND SAFETY ENFORCEMENT OUTTURN 2014–15

A summary of this Outturn is provided under Section 9 above (pages 7-8), with further detail below:

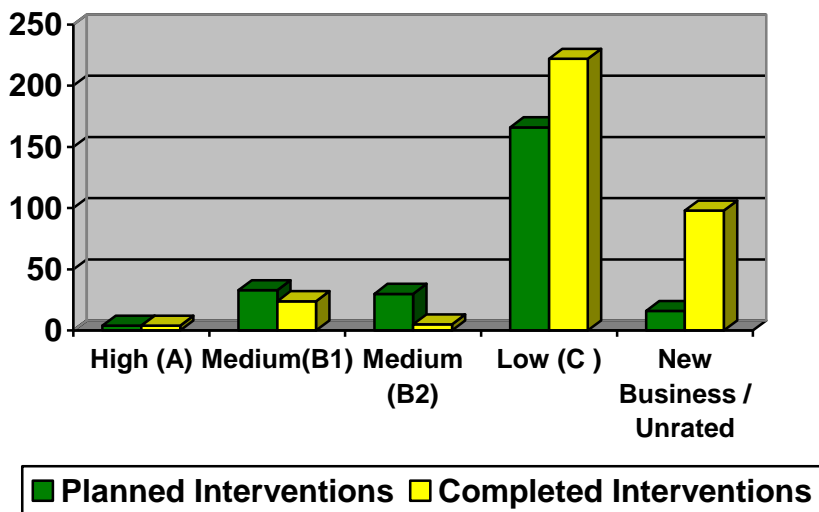
### 1. Proactive Inspections and other interventions

The chart shows the proportion and type of businesses where proactive interventions were targeted in relation to Health and Safety during 2014/15.



In 2014/15 officers completed a combined total of **390** proactive interventions overall, including both inspections and other interactions such as self-assessment questionnaires and appropriate information provision. The individual breakdown for Environmental Health and Trading Standards interventions are illustrated in the diagrams in the subsequent sections 2 and 3.

### 2. Environmental Health – Health and Safety Interventions for 2014/15

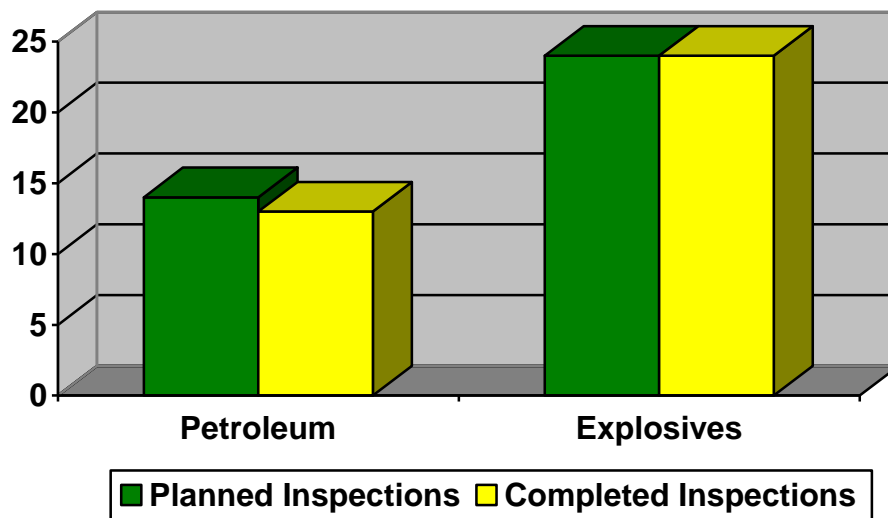


A total of **353** proactive interventions were undertaken during 2014/15. At the beginning of the year there were 4 premises rated as 'A' scheduled for proactive intervention, with all 4 receiving an appropriate visit. Both B1 and B2 rated premises were scheduled to be assessed via returned self-assessment questionnaires and low risk premises scheduled to be provided with relevant information and advice. Slightly fewer than planned interventions occurred with the medium risk premises due to some non-return of questionnaires and some premises closing. An overall higher number of premises were either inspected or provided with advice and guidance than initially programmed, largely due to the Team becoming aware of new premises.

In addition, **109** reactive visits were undertaken during 2014/15 in response to notifications, enquiries or complaints. These comprised of:

- **18** advisory visits
- **30** revisits to follow up on issues of non-compliance
- **8** visits in relation to accidents
- **32** visits in response to complaints or enquiries from business or the public, and
- **21** visits in relation to special treatments (e.g. tattooing) or smoke free legislation

### 3. Trading Standards – Fireworks Safety & Petroleum Interventions for 2014/15



Explosive work is traditionally focussed around the bonfire night celebrations. This is because the majority of licensed premises in the Bracknell area can only sell fireworks at specific times of year (Bonfire, New Year, Diwali, Chinese New Year) with November being the peak season.

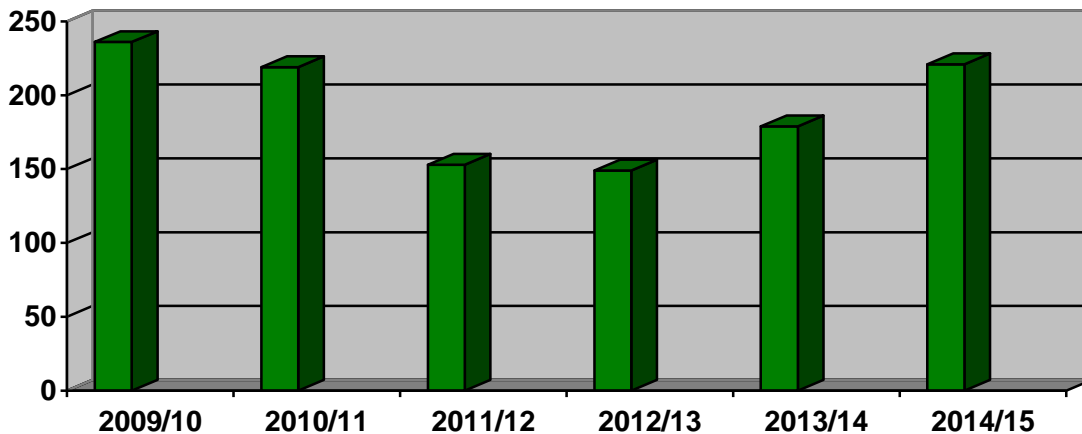
Petroleum licensing is now primarily focussed on petrol stations, there are 15 premises across the district, these are risk rated and visited accordingly. In practice this means that every petrol station is visited at least once every two years.

#### 4. Enquiries and Complaint Investigations



During 2014/15 we received **221** enquiries and complaints as shown below, regarding working conditions and practices. We aim to respond to all such enquiries within 5 working days, but if it is judged that the situation is serious then we try to respond the same day. Some examples of the enquiries we have dealt with are:

- Requests for information about how a business may comply
- Concerns over working practices
- Trip/slip hazards
- Poor working conditions including lighting, heating, temperature



Health and Safety Enquiries and Complaints

#### 5. Accident Investigations

The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 place a legal duty on employers, the self-employed and those in control of premises to notify and report some more serious work-related accidents, diseases and dangerous occurrences. Most notifications are reported via the HSE's website at <http://www.hse.gov.uk/riddor/>. Notifications are then passed on to the relevant enforcement authority.



We review all accident notifications and investigate as appropriate, according to severity and significance of the incident and relevant HSE guidance. Our aims in undertaking independent investigations of accident notifications are:

- to prevent a recurrence of the accident by securing improvements in health and safety standards, including practices and procedures, and the assessment of the effectiveness of existing controls.
- the identification of potential hazards and associated risks.
- provision of advice and information.
- appropriate enforcement action (proportionate to risk) to secure compliance with health and safety legislation where necessary.



During 2014/15 officers received **76** notified accidents and dangerous occurrences.

- **1** fatality (which transpired to be not work related)
- **13** specified injuries
- **30** accidents resulted in a member of the public being taken to hospital.
- **32** accidents resulted in injuries to an employee requiring an absence from work of more than 7 days.
- **0** dangerous occurrences

In order to allow a comparison with our Berkshire neighbours the data for the whole of Berkshire for 2014/15 is detailed over the page. This is broken down into Council area, and shows both the total number and rates per 100,000 population of the main injury types to enable direct comparison.

	Fatalities (rate per 100,000 population*)	Specified Injuries (rate per 100,000 population <sup>4</sup> )	Over 7 day injuries (rate per 100,000 population*)	Members of Public taken to Hospital (rate per 100,000 population*)	Not specified (rate per 100,000 population*)	Total (rate per 100,000 population*)
<b>Bracknell</b>	<b>1 (0.9)</b>	<b>13 (11.5)</b>	<b>32 (28.3)</b>	<b>30 (26.5)</b>	<b>2 (1.8)</b>	<b>78 (68.9)</b>
Reading	0 (0)	13 (8.3)	74 (47.5)	58 (37.3)	6 (3.9)	151 (97.0)
RBWM	1 (0.7)	23 (15.9)	43 (29.7)	60 (41.5)	3 (2.1)	130 (89.9)
Slough	2 (1.4)	7 (5.0)	37 (26.4)	77 (54.9)	4 (2.9)	127 (90.6)
West Berks	0 (0)	16 (8.5)	48 (31.2)	38 (24.7)	1 (0.7)	103 (67.0)
Wokingham	2 (1.3)	10 (6.5)	11 (7.1)	44 (28.5)	0 (0)	67 (43.4)
<b>Total</b>	<b>6 (0.7)</b>	<b>82 (9.5)</b>	<b>245 (28.4)</b>	<b>307 (35.6)</b>	<b>16 (1.9)</b>	<b>656 (76.1)</b>

<sup>4</sup> using 2011 census data at <http://www.bracknell-forest.gov.uk/ks101ew-usual-resident-population.pdf>

Further detail on the causes of many of the accidents is available, and for example of the 656 accidents within Berkshire some of the main causes were:

	Slip, trip or fall on the same level (rate per 100,000 population*)	Lifting and handling injuries (rate per 100,000 population*)	Fall from height (rate per 100,000 population*)	Struck by an object (rate per 100,000 population*)	Other cause or cause not completed (rate per 100,000 population*)
<b>Bracknell</b>	<b>35 (30.9)</b>	<b>7 (6.2)</b>	<b>6 (5.3)</b>	<b>8 (7.1)</b>	<b>15 (13.3)</b>
Reading	46 (29.5)	19 (12.2)	18 (11.6)	17 (10.9)	25 (16.1)
RBWM	56 (38.7)	9 (6.2)	9 (6.2)	6 (4.2)	32 (22.1)
Slough	70 (98.3)	15 (21.1)	8 (11.2)	7 (9.8)	7 (9.8)
West Berks	41 (26.7)	18 (11.7)	8 (5.2)	9 (5.9)	12 (7.8)
Wokingham	38 (24.6)	3 (1.9)	3 (1.9)	4 (2.6)	9 (5.8)
<b>Total</b>	<b>286 (33.2)</b>	<b>71 (8.2)</b>	<b>52 (6.0)</b>	<b>51 (5.9)</b>	<b>100 (11.6)</b>

Whilst this data is useful to help identify the main causes, several accidents do not detail the actual cause, and the information for accidents occurring in other Local Authorities is not readily available. That said, there are some suggestions that reports for Bracknell Forest are slightly raised for certain categories (specified injuries) but overall slightly lower than for other areas of Berkshire. Such figures must however be used with caution, as there may be many reasons for the levels seen, including the reporting of incidents that don't need to be reported.

## 6. Enforcement Action

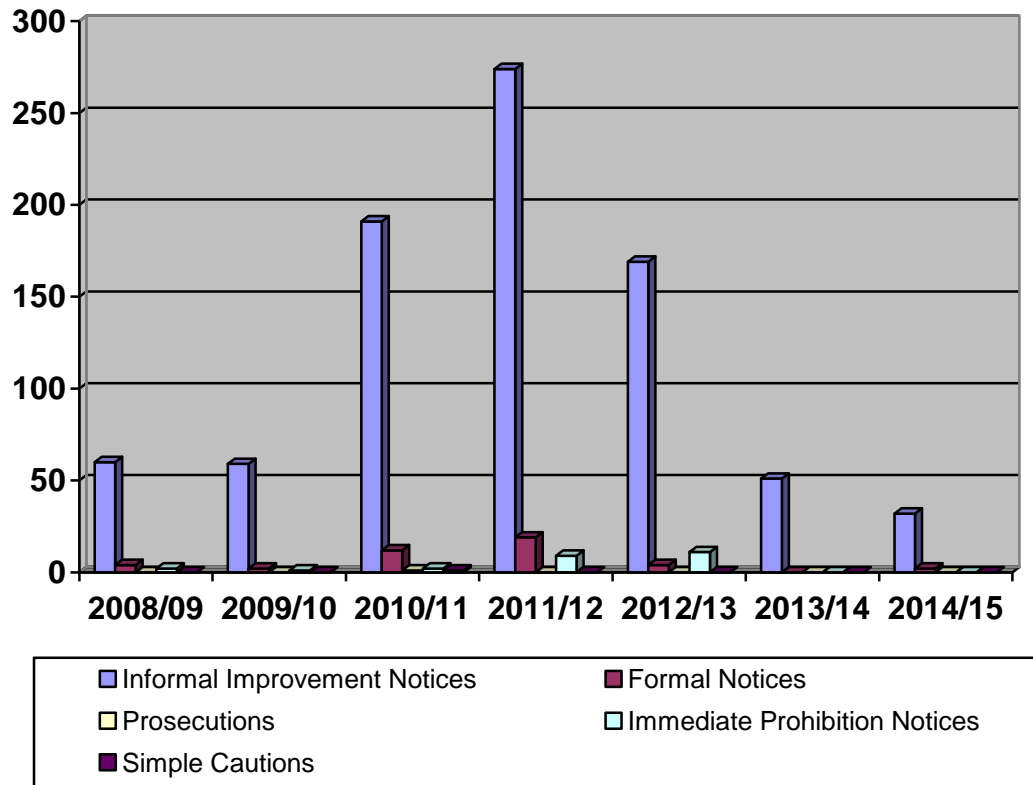


We have adopted a broad and comprehensive set of measures to protect consumers and promote health and safety, and we actively work with local business to achieve a balanced approach. We use the full range of enforcements options available to us, but wherever possible we use informal measures to achieve any necessary improvements. Any enforcement action taken by the officers is proportionate and in accordance with the Council's Enforcement Policy. A full copy of the policy can be found on our website:

<http://www.bracknell-forest.gov.uk/enforcement-policy.pdf>

The enforcement action taken in relation to health and safety for recent years is shown below:

<b>ENFORCEMENT ACTION</b>	<b>2008/09</b>	<b>2009/10</b>	<b>2010/11</b>	<b>2011/12</b>	<b>2012/13</b>	<b>2013/14</b>	<b>2014/15</b>
Informal improvement notices	60	59	191	274	169	51	32
Formal notices	4	2	12	19	4	0	2
Prosecutions	0	0	1	0	0	0	0
Immediate Prohibition Notices	2	1	2	9	11	0	0
Simple Cautions	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>TOTAL</b>	<b>66</b>	<b>62</b>	<b>207</b>	<b>302</b>	<b>184</b>	<b>51</b>	<b>34</b>



In 2011/12 a peak in enforcement work was seen. This was largely due to database updating work undertaken that identified a number of extra premises. As many of these businesses had received no contact previously, the visits revealed a larger number of issues that resulted in informal notices being sent. Since this peak, this figure has been seen to reduce as we have made contact with many such businesses already.

## 7. Project Working

We ensure that our priority is responding to service requests and the programmed health and safety work that we are required to complete. Thus, due to some staff shortages during the year and a significant focus on food safety work, only limited project work was undertaken in 2014/15.

### Cooling Towers



Cooling towers, if not properly managed, may present significant risks to those in the area due to Legionella bacteria breeding in them and escaping to the surrounding area. These bacteria may cause a lung disease called legionellosis, which has very high fatality levels. Due to these risks, nationally authorities were asked by the HSE to inspect relevant cooling towers in their area. We previously inspected the premises requested, and continued to undertake further work with business to improve standards and thus reduce the risks. No formal action was necessary to ensure the necessary progress.



## Water Features



In addition to cooling towers, Legionella bacteria are also able to grow in other types of water systems, including fountains. Due to the national focus on legionella, we continued to focus on responding to relevant enquiries or complaints that had potential legionella implications. This included working with one business that had significant health and safety concerns associated with detecting legionella in their hot water system. This included giving them appropriate advice and support whilst they resolved the problem. No formal action was necessary.

## Liquid Petroleum Gas



This previously emerged as a high risk nationwide priority which required visits to all known sites utilising bulk storage of LPG, to assess condition, risks and controls in place for underground LPG storage and pipe work. In order to prioritise work nationally, only those sites notified by the HSE were investigated, and as no notifications were received, no such visits were undertaken.

## Smokefree Bracknell Forest

Officers continued to monitor and advise business on compliance with smokefree legislation at all visits as appropriate.



A total of 4 complaints and enquiries were received relating to smoking during 2014/15 and all of these were resolved informally without the need for enforcement action. There is advice and information about the smokefree requirements on the Council's website at: <http://www.bracknell-forest.gov.uk/smokingbanenforcement>

## Formal Asbestos Notifications

More people die from asbestos-related disease per year than are killed on the roads. Asbestos is raised as a matter of concern at every relevant inspection. Employers are assessed on how they are complying with their duty of managing asbestos in buildings and advice is given on how to achieve compliance. One formal notification for work involving areas known to contain asbestos was received, and appropriately investigated.

## 8. Staff Development 2014-15

A record of continuous development is maintained for all Officers and training is provided to ensure that officers are up to date and able to tackle specific risks within Bracknell Forest. The following courses were attended during 2014/15:

- Legionella in Hot and Cold Water Systems
- Cryptosporidium in Swimming Pools and at Animal Visitor Attractions
- Tattooing and Skin Piercing

Division: Environment and Public Protection  
 Section: Regulatory Services  
 Team: Health and Safety

National Priority	Council Priority	MTO	Regulatory Services Priority	Service Priority	Service Action	Outcome measure	Priority
<b>Protecting Consumers, Supporting Business</b>							
4	4	6,8 & 9	4	To maintain a comprehensive Health and Safety Law Enforcement Plan.	To adopt annual Health and Safety Law Enforcement Plan.	Adoption of plan by Committee.	Medium
28	1	6,8 & 9	1 & 4	To work in partnership to reduce the number of accidents and incidents of ill health that occur within Bracknell Forest.	Adapting existing project plans that have been developed by the HSE for campaigns to: <ul style="list-style-type: none"> <li>• Free up officer time from developing campaigns and allow more contact time with businesses</li> <li>• Low cost publicity and support material by use of nationally produced resources and publicity</li> <li>• Impact on the health of the community and the strength of the local economy by targeting areas of identified significant risk</li> </ul>	Incorporated into specific items detailed below.	Medium
	4	4	6 & 8	4	To investigate accidents reported via RIDDOR or reported direct.	To ensure a common, proportionate, transparent and targeted approach for the selection and investigation of accidents and incidents. BFC's selection criteria is based on the HSE's HELA guidance LAC 22/13.	100% incidents assessed within 5 working days. 100% fatalities responded to within 24 hours.



Division: Environment and Public Protection  
 Section: Regulatory Services  
 Team: Health and Safety

National Priority	Council Priority	MTO	Regulatory Services Priority	Service Priority	Service Action	Outcome measure	Priority
1	4	6,8 & 9	1 & 4	To assist businesses to improve Health and Safety compliance levels and deliver improved public health outcomes through a programme of Intel led activities.	Ensure the full range of information and guidance on priority areas is available to local businesses.	Respond to 100% requests for information and advice within 5 working days. Maintain up-to-date health/safety pages on the Council's website.	Medium  Low
29	4	6,8 & 9	1 & 4	To assist businesses to improve Health and Safety compliance levels and deliver improved public health outcomes through a programme of Intel led activities.	Inspection of all high risk premises due an intervention plus any other A rated.	Full inspection of 15 high risk premises. Use alternative inspection questionnaires for 109 B1 and B2 premises. Provide additional support or intervention if notable deficiencies identified.  Provide information to 203 low risk businesses.	High
					Offer support and advice to medium risk (B1 and B2 rated) premises where intelligence identifies concerns over levels of compliance - to be initiated and directed by use of alternative inspection techniques (questionnaires).		Medium
					Offer support and advice to new businesses and 20% of all relevant C risk rated businesses in Bracknell Forest.		Low
1	4	6& 8	1 & 4	To assist businesses to improve Health and Safety compliance levels and deliver improved public health outcomes through a programme of Intel led activities.	Respond to requests from businesses and the public to help improve health and safety compliance. Where significant risks are identified, to take prompt action to improve conditions and reduce likelihood of injury or ill-health occurring.	Respond to 100% requests from businesses and the public within 5 working days.	High
1	4	6& 8	1 & 4	To assist businesses to improve Health and Safety compliance levels and deliver improved public health outcomes through a programme of Intel led activities.	Inspection of 50% of all medium risk Petroleum licensed premises. Inspection of 100% of all explosive licensed premises. Offer support and advice to new businesses.	Inspection of 7 petrol stations Inspection of 100% of premises (currently 23). Respond to 100% requests from businesses and the public within 5 working days.	Medium

Division: Environment and Public Protection  
 Section: Regulatory Services  
 Team: Health and Safety

National Priority	Council Priority	MTO	Regulatory Services Priority	Service Priority	Service Action	Outcome measure	Priority	
1	4	6,8 & 9	1 & 4	To assist businesses to improve Health and Safety compliance levels and deliver improved public health outcomes through a programme of Intel led activities.	Attend SAG meetings and provide support and information to Event Organisers.	Attend monthly meetings and attend events where specific uncontrolled risks identified.	Medium	
<b>Project Working – Focussing Resources</b>								
OE	4	4	8	4	To assist businesses to improve Health and Safety compliance levels and deliver improved public health outcomes through a programme of Intel led activities.	Liquid Petroleum Gas Inspection. Inspection of high risk commercial sites with underground LPG pipe work to ensure safety of employees and site visitors as notified by the Health and Safety Executive.	Inspection of all notified sites (estimated 5).	High
	4	4	6& 8	1 & 4	To assist businesses to improve Health and Safety compliance levels and deliver improved public health outcomes through a programme of Intel led activities.	Asbestos. Ensure compliance in commercial premises that may contain asbestos materials to ensure risk to employees and visitors is minimised by: incorporating asbestos control into full health and safety inspections. Providing appropriate advice and guidance for all formal asbestos removal notifications.	Include asbestos management within 100% of full inspections (15).  Respond to 100% of formal notifications and attend removal works as appropriate.	High  Medium
	4	4	6,8 & 9	1 & 4	To assist businesses to improve Health and Safety compliance levels and deliver improved public health outcomes through a programme of Intel led activities.	Inspection of HSE notified cooling towers to ensure safety of employees and those in the vicinity. Ensure that all relevant cooling tower premises are registered, in order to facilitate oversight of high risk activities.	Inspect 100% premises notified by the HSE (estimated 5).  Review registered cooling towers to ensure up to date.	High  Medium

Division: Environment and Public Protection  
 Section: Regulatory Services  
 Team: Health and Safety

National Priority	Council Priority	MTO	Regulatory Services Priority	Service Priority	Service Action	Outcome measure	Priority	
31	4	6,8 & 9	1 & 4	To assist businesses to improve Health and Safety compliance levels and deliver improved public health outcomes through a programme of Intel led activities.	Skin piercing treatments - local intel shows rising numbers of high risk skin piercing operations. Risk focussed initiative to assess practices within higher risk skin piercing businesses (tattooists and cosmetic body piercers).	Assessment of 100% of relevant premises (currently 6) against local Byelaws and national guidance. Appropriate actions to minimise risks to customers.	Medium	
	4	6& 8	1 & 4	To assist businesses to improve Health and Safety compliance levels and deliver improved public health outcomes through a programme of Intel led activities.	Legionella risks – local intel from previous project suggests some local businesses not aware of adequate legionella controls. To target businesses providing residential care for legionella controls.	Assessment of 5 residential care homes for adequate legionella controls. Provision of advice and assistance to ensure adequate control of legionella.	Medium	
	4	6 & 8	1 & 4	To assist businesses to improve Health and Safety compliance levels and deliver improved public health outcomes through a programme of Intel led activities.	Reduce risks of carbon monoxide poisoning from solid fuel cooking. To be assessed as part of food hygiene inspections in order to minimise multiple regulatory visits to businesses.	Assess 100% of inspected food premises for risks from solid fuel burners (estimated 254), providing appropriate advice to businesses with solid fuel burners.	Medium	
	1	4	8& 9	1 & 4	To assist businesses to improve Health and Safety compliance levels and deliver improved public health outcomes through a programme of Intel led activities.	Examine local trends of complaint, enquiry and accident notifications and use as service planning intelligence; targeting higher risk activities or work areas for the subsequent financial year.	Evaluate 2015/16 data to ensure local intelligence is used to focus the 2016/17 work plan.	High
	1	4	8& 9	1 & 4	To assist businesses to improve Health and Safety compliance levels and deliver improved public health outcomes through a programme of Intel led activities.	Examine local trends of RIDDOR accident notification accuracy and reduce over-reporting of non-reportable accidents by targeting businesses with higher reporting rates.	Identify the 5 highest RIDDOR reporters; provide advice and guidance to ensure appropriate reporting and any on-going risks resolved.	Medium

Division: Environment and Public Protection  
 Section: Regulatory Services  
 Team: Health and Safety

National Priority	Council Priority	MTO	Regulatory Services Priority	Service Priority	Service Action	Outcome measure	Priority
1	4	8	1 & 4	To assist businesses to improve Health and Safety compliance levels and deliver improved public health outcomes through a programme of Intel led activities.	2014/15 RIDDOR and complaint data suggest increased levels of accidents within warehouses. Investigate the extent of current warehouse operations and high risk activities (e.g. fork lift truck, other workplace transport and racking systems).	Primary industrial unit areas surveyed for warehousing and relevant advice provided.	Medium
1	4	8&9	1 & 4	To assist businesses to improve Health and Safety compliance levels and deliver improved public health outcomes through a programme of Intel led activities.	Work with Primary Authority Partners to improve consistency across Local Authority areas within England and Wales by providing advice and guidance in relation to health and safety matters.	Respond to 100% of requests for assistance and provide appropriate advice and guidance on health and safety matters.	Medium
<b>Performance Management</b>							
	4	8&9	4	To maintain a quality service in accordance with Section 18 HASWA.	Annual review and implementation of work plan to demonstrate compliance with S18 requirements, ensuring consistency of approach and maximised resources, including up to date procedures and competency systems. Identify staff training needs during appraisals, including: Regulators Development Needs Analysis tool (RDNA) and Guidance for Regulators Information Point (GRIP), and provide relevant staff training/experiential learning, ensuring continued competence in relevant skills.	Monthly and quarterly monitoring of targets via KPIs and quarterly monitoring systems. Quarterly consistency monitoring of officers. Any identified shortfalls addressed. Annual assessment of officer training needs via RDNA analysis. Provision of relevant training required.	High

32

Division: Environment and Public Protection  
 Section: Regulatory Services  
 Team: Health and Safety

National Priority	Council Priority	MTO	Regulatory Services Priority	Service Priority	Service Action	Outcome measure	Priority
1	4	6,8 & 9	4	Continue to improve our service by managing our performance and comparing ourselves against others.	Apply best practice, enabling the service to continually improve and identify areas suitable for collaborative working. Work with local partners, including Berkshire LAs and the HSE to share knowledge, and minimise duplication of effort.	Attendance and participation in Berkshire health and safety liaison group.	Medium

**33 Regulatory Services Priorities:**

1. To protect and support residents and legitimate business through the promotion of a fair, safe, responsible and competitive trading environment.
2. To work with local business to deliver a safe and quality food chain.
3. To work with partners on improvements to the local environment which positively influence the quality of life and promote sustainability.
4. To target enforcement action against those who demonstrate a disregard for the law and the consequences of their actions.
5. To promote public health and healthy living.
6. To constantly keep under review existing working procedures to ensure improvements in service delivery, effectiveness and efficiency.

**BDRO Priority Regulatory Outcomes:**

1. Support economic growth, especially on small business, by ensuring a fair, responsible and competitive trading environment.
2. Protect the environment for future generations including tackling the threats and impacts of climate change.
3. Improve quality of life and wellbeing by ensuring clean and safe neighbourhoods.
4. Help people to live healthier lives by preventing ill health and harm and promoting public health.
5. Ensure a safe, healthy and sustainable food chain for the benefits of the consumer and the rural economy

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**TO: LICENSING AND SAFETY COMMITTEE  
11 JUNE 2015**

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**ANNUAL REPORT AND WORK PLAN  
Chief Officer: Environment and Public Protection**

**1 PURPOSE OF REPORT**

1.1 This report covers the activities carried out by the Licensing Section during the period 1 April 2014 to 31 March 2015. The report also includes the proposed work plan for the period 2015/16. The Committee is also asked to consider and comment upon this document.

**2 RECOMMENDATIONS**

**2.1 That the Committee:**

- i) notes the work completed in 2014/15 and detailed within this report; and**
- ii) subject to any comments, approves the work plan for 2015/16 at Annex B.**

**3 REASONS FOR RECOMMENDATIONS**

3.1 The Committee agreed a work plan for 2014/15 at its meeting on 12 June 2014. This report details some of the main achievements of the service during 2014/15 and requests that members comment upon and approve a plan for 2015/16.

**4 ALTERNATIVE OPTIONS CONSIDERED**

4.1 None.

**5 SUPPORTING INFORMATION**

5.1 Attached as Annex A is a list of those licences, registrations, permits and consents that are current as of 1 April 2015 or were issued within the last year. This is a single indicator of the number of transactions that the Licensing Service has with businesses operating within the Borough. Legislation requiring a licence/permit for a business activity is generally enacted on health and safety grounds to protect users of a service or those that might be affected due to their proximity to the licensed premises or their interaction with a licensed person.

5.2 The Licensing Service considers and issues a range of licences and permits required by businesses in order that they can deliver a range of services and goods to residents and visitors to Bracknell Forest. The service is aware that the licensing function, whilst offering protection, can also act as a barrier to others who wish to deliver services or supply goods and every effort is made to assist businesses to understand and progress rapidly through the licensing process. The service therefore has a number of functions including business advice, processing of applications, monitoring compliance and where necessary taking enforcement action.

5.3 A number of the licences require the submission of documents which have to be validated by the Licensing Service. These include such items as vehicle insurance, MOT certification, public liability insurance, criminal record disclosures, professional training records and health and safety risk assessments. These checks are essential to ensure the continued confidence of the Council, and ultimately the user, in the

safety of the service or goods being supplied. The service sets itself a target to issue licences within either 2 or 3 working days of receipt of a complete and valid application on 95% of occasions. The service achieved 99% in 2014/15.

- 5.4 A further aspect is that of assisting businesses to grow whilst complying with the legal requirements and conditions. The service provides an extensive range of advice and information sheets via the internet or through the Customer Service Centre. Additionally officers regularly meet with applicants or licence holders to give guidance, such as attendance at Pubwatch meetings run by the trade, meeting with new Designated Premises Supervisors for premises licensed for the sale of alcohol, private hire operators at their base and taxi drivers at the ranks. A newsletters for the taxi trade to give an update on legislative changes and procedures and was issued at the same time as new guidance booklets were issued.
- 5.5 Officers use a risk based assessment programme to visit licensed premises and vehicles to check compliance and provide assistance and advice for those businesses. In 2014/15 officers carried out 109 programmed inspections (166 in 2013/14). Additionally officers carried out 20 non-programmed inspections (50 in 2013/14), many in the evenings and weekends where we had intelligence from residents, complaints or details passed to us by agencies such as Thames Valley Police that non-compliance was occurring. These inspections were significantly down on last year due to a long term absence of an officer. The team is now fully staffed moving into 2015/16. Officers initially deal with non-compliance by working with the business to raise standards and further unannounced visits may be made to verify improvement. Where non-compliance continues, officers use an Enforcement Policy which provides for a stepped process to include warnings, cautions, review, suspension or revocation of a licence or finally prosecution.
- 5.6 In the last year officers issued 1 warnings in relation to licensing matters (3 in 2013/14), and 264 enforcement points were issued to 26 licensed drivers (184 points in 2013/14). The points were issued for the following matters:

2 drivers for breach of construction & use regulations  
5 drivers for failing to comply with traffic signs  
13 drivers for failure to notify the council of convictions  
4 drivers for failing to wear/display their badge  
11 drivers for failing to display the vehicle licence plate properly  
6 drivers for illegal tyres  
2 drivers for using a mobile phone whilst driving  
1 driver for parking in a disabled parking bay

It can be seen that the incidents of non-compliance identified were actually higher than last year and whilst we did prioritise work towards this the number of inspections were actually less. This is a disappointing result and we will focus in this area in 15/16 and closely monitoring compliance levels.

- 5.7 Other areas of work that were completed in 2014/15 include:
- (i) A total of 4 multi-agency checks involving Council officers, Thames Valley Police and VOSA were conducted. Issues of concern detected during the taxi checks included defective tyres, lights and failure to display the vehicle plate or driver's badge. Penalty points were issued as detailed above.
  - (ii) The Safety Advisory Group received approximately 72 forms for local events during 2014/15. This was a slight increase on demand in 2013/14 and shows that event organisers see it as a helpful attribute to them delivering safe and successful events.



- 5.8 Attached as Annex B is the draft workplan for 2015 - 2016. This has been drawn up taking into account national and local priorities together with local knowledge of our licensed businesses.

## **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 strategic risk management implications arising from the recommendation in this report.

## **7 CONSULTATION**

### Principal Groups Consulted

- 7.1 The key partners have been consulted upon the outcomes of work conducted in 2014/2015. Where there is positive feedback and a continued perceived need then similar work will be programmed for 2015/2016. All feedback is taken into account and helps inform the plan's future development. There has been no feedback that needs to be taken into account in the proposed plan

### Method of Consultation

- 7.2 The workplan will be discussed with key partners during the year and adjustments made where necessary.

### Representations Received

- 7.3 None.

### Background Papers

None

### Contact for further information

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## Current Licences 1st April 2015

Annex A

Type	No	Type	No
Hackney Carriage (Dual) Drivers	163	Personal Licences	1140
Hackney Carriage Vehicles	83	Premises Licences	228
Home To School Drivers	17	Temporary Event Notices	25
Home to School Vehicles	25	Club Premises Certificates	20
Private Hire Vehicles	165	Street Traders	16
Private Hire Drivers	134	Street Collections	9
Private Hire Operators	40	House to House Collections	4
Animal Boarding Establishments	3	Lotteries	59
Home Boarding Establishments	27	Caravan Sites	19
Riding Establishments	6	Licensed Premises Gaming Machine Permits	10
Performing Animals	4	Gaming Machine Notifications	35
Pet Shops	7	Club Machine Permits	8
Motor Salvage	0	Club Gaming Permits	1
Scrap Metal Dealers	0	Bingo Premises	1
Joint Motor Salvage / Scrap Metal	0	Adult Gaming Centres	1
Hairdressers	61	Betting Premises	12
Poisons	0	Petroleum	15
Explosives	26	Tattoo, Acupuncture, Piercing etc (Personal Registration)	79
Tattoo, Acupuncture, Piercing etc (premises Registration)	37		

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**Division:** Environment and Public Protection  
**Section:** Regulatory Services  
**Team:** Licensing

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Priority area	MTO	Service Aim	Service Task	Target/Measure Inc National/Local indicators	Mandatory or desirable	Impact if not undertaken	What is the harm being addressed	Impact of taking action	Importance
		Provide an efficient and seamless service for applications	Carry out surveys which look at customer experience of applications process	Surveys carried out for two months within calendar year	Desirable	Lack of knowledge on customer experience	Poor customer support	Assisting business to prosper	M
		Provide an efficient and seamless service for applications	Ensure compliance with the EUSD for licensing function	Continued ability to accept online applications	Mandatory	Breach of EU regulations	Businesses not being able to trade	Compliance with EU law and assisting business	H
		Provide an efficient and seamless service for applications	Manage and provide support to the Safety Advisory Group	Advice provided for approx 50 local events per year	Desirable	Lack of local coordination and unsafe events	Events that are unsafe or disrupt community life	Well run events that are safe and provide for the community	M
		Provide easy to access advice and information for businesses on licensing matters to help improve compliance	Maintain guidance on applications and information on current licences on website	Online and public register maintained	Mandatory	Certain information required by law to be on website	Failing to deliver a satisfactory service for local businesses and consumers	Assisting customers and residents in understanding the licensing system	H

**Division:** Environment and Public Protection  
**Section:** Regulatory Services  
**Team:** Licensing

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Priority area	MTO	Service Aim	Service Task	Target/Measure Inc National/Local indicators	Mandatory or desirable	Impact if not undertaken	What is the harm being addressed	Impact of taking action	Importance
		Provide easy to access advice and information for businesses on licensing matters to help improve compliance	Inform businesses and potential applicants about changes to legislation that may affect them	Newsletters for licensed trade?	Desirable	Applicants make inappropriate or invalid applications	Failing to deliver a satisfactory service for local businesses	Assisting licence holders and applicants in understanding the licensing system	M
		Provide an efficient and seamless service for applications	Inform local residents and businesses about applications that may affect them	Neighbouring property notifications conducted	Desirable	Residents and local businesses unaware of application	Failing to deliver a satisfactory service for local businesses and consumers	Assisting residents in understanding the licensing system and their powers	M
		Continue to improve our service by comparing ourselves against performance measures	Ensure applications are processed within agreed local performance indicators and as required by legislation	Monthly reports run to ensure that 95% target and legislative requirements met	Desirable - but mandatory in some cases	We fail to manage our performance and service standards slip and in some cases breach the law	Failing to deliver a satisfactory service and ensuring we comply with the law	We can judge our performance and improve our service	H

**Division:** Environment and Public Protection  
**Section:** Regulatory Services  
**Team:** Licensing

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Priority area	MTO	Service Aim	Service Task	Target/Measure Inc National/Local indicators	Mandatory or desirable	Impact if not undertaken	What is the harm being addressed	Impact of taking action	Importance
		Handle service requests through use of advice and information	Ensure service requests are handled within agreed local performance indicators	Monthly reports run to ensure that 95% target met	Desirable	Complaints and requests for service are not handled within agreed service levels	Failing to deliver a satisfactory service for local businesses/c onsumers	We can judge our performance and improve our service	H
		Ensure compliance through intelligence led and risk-rated monitoring with enforcement action where appropriate	Carry out multi-agency operations directed at licensed premises and vehicles, including mystery shopper operations and work with Trading Standards on underage sales operations	At least 4 multi-agency licensed vehicle checks At least 2 multi-agency street trader/scrap metal checks Out of hours work as required	Desirable	Health and safety of users is put at risk. The business of the legitimate trade is put at risk by rogue traders	Licensable activity being carried out not in accordance with law, which risks nuisance and harm	Standards within the licensed trade are maintained to the benefit of consumers and good businesses	H

**Division:** Environment and Public Protection  
**Section:** Regulatory Services  
**Team:** Licensing

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Priority area	MTO	Service Aim	Service Task	Target/Measure Inc National/Local indicators	Mandatory or desirable	Impact if not undertaken	What is the harm being addressed	Impact of taking action	Importance
		Deliver a targeted inspection programme focussing on those businesses presenting the highest risk to consumers	Carry out programmed inspections in accordance with risk rating	100% high risk, 50% medium risk and 20% low risk inspections completed and 100% revisits completed within one month  300 vehicle / driver checks	Desirable	Health and safety of users is put at risk. The business of the legitimate trade is put at risk by rogue traders	Licensable activity being carried out not in accordance with law, which risks nuisance and harm	Standards within the licensed trade are maintained to the benefit of consumers and good businesses	M
		Develop the use of our knowledge to improve planning and delivery	Ensure all officers are aware of changes to legislation and procedures and policies are updated as required	All procedures reviewed as required	Desirable	Poor service to customers or residents	Failing to comply with the law	Standards within the service are maintained	M
		Develop the use of our knowledge to improve planning and delivery	Review statutory policies as required	LA03 and GA05 policies reviewed and republished by January 2016	Mandatory	Breach of legislation	Policies could be challenged if not lawful	Policies are up to date and fit for purpose	H



**TO: LICENSING AND SAFETY COMMITTEE  
11 JUNE 2015**

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**REVIEW OF STATEMENT OF LICENSING POLICY  
Chief Officer: Environment and Public Protection**

**1 PURPOSE OF REPORT**

- 1.1 The purpose of this report is to advise the Committee of the proposed timetable to review the Council's Statement of Licensing Policy ('SLP') under the Licensing Act 2003 as attached (Annex A).

**2 RECOMMENDATION**

**2.1 That the Committee:**

- i) **approves the proposed timetable as set out in paragraph 5.3; and**
- ii) **agrees the proposed consultee list at Annex B.**

**3 REASONS FOR RECOMMENDATION(S)**

- 3.1 Section 5 of the Licensing Act 2003 ('the Act') requires the licensing authority to prepare and publish a SLP every five years. The SLP outlines the general approach of the licensing authority when making licensing decisions under the Act and can be reviewed and revised by the authority at any time.
- 3.2 The Bracknell Forest SLP must undergo a review and be re-published on 7 January 2016. The purpose of this report is to advise the Committee on a proposed timetable to ensure this legal requirement is met.

**4 ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 There are no alternative options as the consultation and revision of the SLP are legal requirements.

**5 SUPPORTING INFORMATION**

- 5.1 Before determining the policy for any five year period, the licensing authority must consult the persons listed in section 5(3) of the Act. These are:

- The chief officer of police for the area
- The fire and rescue authority for the area
- Persons or bodies representative of holders of local personal licences, premises licences and club premises certificates
- Persons or bodies representative of businesses and residents in its area

The views of all consultees should be given appropriate weight when the policy is determined. Beyond the statutory requirements, it is for the licensing authority to decide the full extent of its consultation. Whilst it is clearly good practice to consult widely, this may not always be necessary or appropriate.

- 5.2 In addition it is recommended that consultation should be in accordance with Government best practice, including allowing 12 weeks for responses to the

consultation. Whilst this is not a legal requirement, a failure to consult in an appropriate manner could be grounds for a subsequent legal challenge to the SLP.

- 5.3 To enable the SLP to be reviewed and published in accordance with the legislation, the following timetable is recommended:

June 2015 - Sept 2015	Consultation period
8 October 2015	Report to Licensing and Safety Committee on the consultation with draft SLP for comment and approval
21 October 2015	Report to CMT on consultation responses received with draft SLP for comment and approval
17 November 2015	Report to Executive for approval to take draft SLP to Full Council
25 November 2015	Draft SLP to Full Council
7 January 2016	New SLP published and comes into force

## **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 list of proposed consultees is attached at Annex B but any person may comment on the consultation.

### Method of Consultation

- 7.2 The consultation will take place via the Council's public consultation portal. Details of the consultation will be sent to those listed in Annex A via email.

### Representations Received

- 7.3 Not applicable at this stage.

Background Papers

Statement of Licensing Policy (January 2011)

Contact for further information

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# **Statement of Licensing Policy**

**January 2011**

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## 1. Introduction to the Policy

1.1 The Licensing Act 2003 requires Bracknell Forest Borough Council, as the Licensing Authority, to publish a 'Statement of Licensing Policy' which sets out the policies the Licensing Authority will apply to promote the four Licensing Objectives when making decisions on applications. In drafting this Policy, the Licensing Authority is seeking to protect and where possible to improve the look and feel of Bracknell Forest, attracting visitors and making it a stimulating and enjoyable place in which to live, study and work.

1.2 In carrying out its licensing function, the Licensing Authority will promote the four Licensing Objectives. These are the only matters to be taken into account when determining an application. The four Licensing Objectives are:

- (a) Prevention of Crime and Disorder;
- (b) Public Safety;
- (c) Prevention of Public Nuisance; and
- (d) Protection of Children from Harm.

1.3 The Council has adopted a Neighbour Notification policy for applications for new licences and the variation of existing licences. This is in accordance with paragraph 8.52 of the Guidance issued under section 182 of the Licensing Act 2003. A copy of the policy is attached to this document as Annex A. The Neighbour Notification policy will be kept under review by the Licensing and Safety Committee.

1.4 Where relevant representations have been submitted, the Licensing Authority shall aim to facilitate negotiations between the applicant, Responsible Authorities and/or interested parties prior to the hearing.

1.5 There are four main licensable activities:

- a) the sale by retail of alcohol;
- b) the supply of alcohol by or on the behalf of a club to, or to the order of, a member of the club;
- c) the provision of regulated entertainment; and
- d) the provision of late night refreshment.

This Licensing Policy is about the regulation of licensable activities and as such is focussed on the direct impact of activities taking place on or in the vicinity of those premises. It is not a primary mechanism for controlling general nuisance unconnected to the Licensing Objectives.

1.6 This Policy is intended to shape the future of licensing, entertainment and related social activities within the Borough, and has been produced after consultation with the public and interested bodies, including the licensed trade, responsible authorities and other agencies. Due consideration has been given to all relevant responses in the production of the final version of this Policy.

1.7 The Licensing Authority aims to ensure that licensed premises have good operating practices, which assist in reducing the significant contribution that alcohol misuse makes to violent crime.

1.8 The Licensing Authority is committed to working in close partnership and communicating with all licensees, responsible authorities and interested parties where appropriate in order that they have a clear understanding of both the legislative and operational requirements.

- 1.9 The Licensing Authority is committed to promoting the Borough's Sustainable Community Strategy and will actively encourage a broad range of entertainment, recognising the wider cultural benefits for local communities. Live performance is central to the development of cultural diversity and vibrant, exciting communities, particularly traditional entertainment such as circus and street arts. The Licensing Authority recognises that artistic freedom of expression is a fundamental right and should be greatly valued.
- 1.10 To ensure this Policy integrates with other strategies, such as the Safer Communities Strategy, the Anti-Social Behaviour Strategy and the Safer Communities Partnership, the Licensing Authority has liaised and consulted with the appropriate groups and will continue to develop close working partnerships.
- 1.11 The Licensing Authority recognises that licensing is about licensable activities taking place at licensed premises, qualifying clubs and temporary events within the terms of the 2003 Act, and that conditions attached to various authorisations will be focussed on matters which are within the control of individual licensees and others in possession of relevant authorisations.
- 1.12 The changes to licensing which came into effect in November 2005 applied to:
- Pubs, nightclubs, and bars
  - Indoor sporting events including boxing and wrestling
  - Off-licences and other places that sell alcohol, such as supermarkets and convenience stores
  - Restaurants that serve alcohol
  - Businesses offering hot food between 11pm and 5am, eg: late-night cafés, takeaways, street trading etc
  - Hotels, guesthouses
  - Private members clubs, sports and social clubs and clubs associated with businesses
  - Theatres
  - Garage forecourts selling alcohol and hot food after 11pm
  - Cinemas
  - Organisers of Regulated Entertainment, eg: Community Centres, Schools and Village Halls

However, this list is not exhaustive and the Policy covers a wide variety of premises and activities carried on in them as specified within the Act. For this reason the Licensing Authority cannot detail in the Policy all the factors that may influence the achievement of the Licensing Objectives.

- 1.13 When determining applications, the Licensing Authority must be satisfied that the applicant's Operating Schedule (described later in the Policy) seeks to promote the four Licensing Objectives. The Licensing Authority will make decisions guided by this Policy but will not fetter its right to discretion. In the interests of the safety and wellbeing of all users of the facilities it licenses, the Licensing Authority expects licensees to adopt best practices for their industry. The Licensing Authority's Statement of Licensing Policy further outlines the expectations of the Licensing Authority and should assist applicants to understand the rationale behind its Policy.
- 1.14 Every application to the Licensing Authority will be considered on its merit and will be treated fairly and objectively, taking into account the four Licensing Objectives. The Licensing Authority may monitor race-equality to ensure a fair application of the Policy, with specific reference to the rate of approvals/refusals, the level of enforcement, and the attachment of additional conditions.



- 1.15 The Licensing Panel will take into account the views of Thames Valley Police, which has issued guidance to its licensing officers regarding the criteria to work to when considering a licence application. It is strongly recommended that all applicants consult with the local police licensing officer before submitting an application.
- 1.16 If there is a recognised need, the Licensing Authority will form a liaison group that includes representation from responsible authorities and the community, to assess the impact of current licensable activities and the possible cumulative effect in an area. The purpose of this will be to:
- (a) monitor developments in the area;
  - (b) identify and resolve any issues within the community;
  - (c) assess cumulative impact of a concentration of licensed premises; and
  - (d) ensure the licensing objectives are being met.
- 1.17 The Policy will not undermine the applicant's right to apply under the Act for a variety of permissions, nor does it override the right of any person to make representations on any application or seek a review of a licence or certificate.
- 1.18 The Policy is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers and operators, for example Disability Discrimination legislation, the Health and Safety at Work etc Act 1974, the Environmental Protection Act 1990 and the Regulatory Reform (Fire Safety) Order 2005.
- 1.19 This Policy will be continually updated and reviewed. In any event the Policy will be reviewed every 3 years.
- 1.20 Comments on the Policy may be made to the Licensing Authority, Bracknell Forest Borough Council, Time Square, Market Street, Bracknell or online at [www.bracknell-forest.gov.uk](http://www.bracknell-forest.gov.uk). All comments received will be carefully considered and, where appropriate, included in the Policy.
- 1.21 The Licensing Authority will work with the Police as appropriate where there is a possibility of a premises being subject to a Police Closure Notice. Protocols for enforcement will be established between the Police and the Licensing Authority in order to target agreed problems and high risk premises that require greater attention, whilst allowing a lighter touch in respect of well run, low risk premises.
- 1.22 The Licensing Authority will work with and actively encourage licensees to promote anti-drink driving campaigns, for example, licensees could participate in the Designated Driver (DES) Scheme promoted by the Portman Group and backed by the Department for Transport and the British Beer & Pub Association.
- 1.23 The Policy has in mind a wide range of licensed premises, from small off-licences and take-aways to cinemas and large nightclubs. The Licensing Authority has discretion to decide that parts of the Policy do not apply to particular premises, and also has a wide discretion as to what conditions, if necessary, are appropriate to attach to a licence. These conditions will be tailored to suit the circumstances and premises. Conditions will be proportionate and necessary to achieve the licensing objectives. If no representations are received, however, the application will be granted in the terms sought and no additional conditions attached.
- 1.24 The Licensing Authority will seek to protect the reasonable rights of residents and businesses, and other parties such as visitors and persons holding official offices/responsibilities. In determining applications, the Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on

members of the public living, working or engaged in normal activity in the area concerned. The Licensing Authority recognises that licensing law is not a primary mechanism for the general control of anti-social behaviour by individuals once they are away from the premises. Nonetheless, it is a key aspect of such a control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in the town centre.

1.25 The Licensing Authority recognises that longer licensing hours for the sale of alcohol aims to:

- ensure that large numbers of customers leaving premises simultaneously are avoided,
- meet the Public Safety, Public Nuisance and Crime and Disorder Licensing Objectives,
- encourage the development of a thriving and safer night time economy, and
- offer a greater choice and flexibility to the community.

1.26 Most licensable activities are listed in the Glossary, however where a member of the public is uncertain as to whether an activity is licensable or not they should contact the Licensing Section through the Customer Service Centre on 01344 352000 or e-mail [licence.all@bracknell-forest.gov.uk](mailto:licence.all@bracknell-forest.gov.uk).

## **PART A**

### **2. Licensing Objective 1: Prevention of Crime and Disorder**

2.1 The Licensing Authority is committed to reducing crime and disorder across the Borough through its statutory duty under the Crime and Disorder Act and the Community Safety Strategy. In addition, the Council is committed to further improving the quality of life for the people of Bracknell Forest by continuing to reduce crime and the fear of crime.

2.2 National and local crime statistics evidence that the consumption of alcohol is a significant contributory factor to levels of crime and disorder. Good management and practice procedures in licensed premises can and do make an important contribution to lessening that impact. An example of good practice would be for licensees to join a local Pub and Drug Watch Scheme.

2.3 The Licensing Authority, Police and licensees are encouraged to work in partnership with a local Pub and Drug Watch Scheme within the Borough to help licensees to form strategies for actively preventing crime and disorder issues. This scheme encourages the sharing of information through effective communication and seeks to address matters such as under-age sales, problems associated with drunkenness, prevention of illegal drug use, and anti-social behaviour.

2.4 It is imperative that all forms of crime are prevented in licensed premises. A responsible licensee or their staff shall deter, prevent and report other instances of crime, such as offences under the Theft Acts (eg: handling stolen goods), violence or any other activity likely to constitute or conspiring to commit crime, including activities associated with the sex industry.

2.5 The Licensing Authority and Thames Valley Police through their Safer Communities Partnership will regularly monitor and review crime statistics within the Borough and their association with alcohol. Applicants for new licences or existing licences under a review process will need to satisfy the Licensing Authority in their Operating Schedule that they

will take reasonable steps to reduce and prevent Crime and Disorder on their premises or in the vicinity in line with Local Crime Prevention Strategies.

- 2.6 In considering licensing applications, the Licensing Authority will expect applicants to set out, where necessary and based on individual risk assessment:
- (a) What measures will be taken by the licensee to promote intolerance of drugs and illegal substances, to prevent their use, sale or supply on the premises, and what provision will be made for facilities to store seized items.
  - (b) What measures will be taken by the licensee to raise staff awareness of both drug and alcohol abuse, for example training to recognise symptoms of drug abuse.
  - (c) What action will be taken when drugs have been found. The Licensing Authority may require a log to be kept and all entries in the log to be witnessed. This log should be made available to any Police Constable or authorised officer of the Licensing Authority. The Licensee should advise the Police at the earliest possible opportunity of any found or confiscated drugs.
  - (d) What measures will be taken by the licensee to prevent alcohol abuse such as drinking games and continuous drink promotions, including the adoption of advice by the British Beer and Pub Association and the Portman Group.
  - (e) What features are currently in place or planned for physical security at the premises eg, CCTV. As a preventative measure in the licensing application process, all new applicants are advised to consult with the Thames Valley Police Crime Reduction Team.
  - (f) How licensees propose to work in partnership with the Licensing Authority, Police and other traders to establish an agreement on co-ordinating operating hours to prevent large numbers of people moving between premises, e.g. disco nights, promotion nights and special events which could attract large numbers of people. Such co-ordination, though it is not a requirement of the Licensing Act, could be achieved through a local Pub Watch Scheme.
  - (g) What arrangements will be made for the adoption and use of a recognised or appropriate age-monitoring scheme.
  - (h) What active management measures will be taken for the prevention of violence or public disorder eg, where appropriate, employment of registered door staff to control entry, persons awaiting entry to the premises, flashpoints within the premises, and the dispersal of customers. This might include the safety of women and race issues, ie: measures taken to deal with harassment, discrimination and inappropriate behaviour.
- 2.7 Applicants should address in their Operating Schedule the individual style and characteristics of their premises and the proposed events and activities. This could include, for example, seating provided in pubs, bars, nightclubs and late night refreshment houses because research has shown that the amount of seating can be relevant to the prevention of crime and disorder.
- 2.8 The Licensing Authority is aware that retail outlets will be able to sell alcohol for consumption off the premises at any time they are open for trade including 24-hour opening, Sundays and Bank Holidays. However, a restriction on sales may be imposed where representations are made by the Police and it is considered necessary to promote the Licensing Objectives.

- 2.9 Where conditions have not been adhered to in the past, the Licensing Authority will expect applicants to have considered and taken action to address those issues. New applications or applications for variation may be refused where there are significant outstanding issues.
- 2.10 In the interests of the Public Safety and Crime and Disorder Licensing Objectives, the Licensing Authority will advise, where appropriate, that where alcohol is consumed in designated outside areas, provision is made to ensure that glasses and bottles will be of a type which, when broken, do not enable the remnants to be hazardous, or used as a weapon. This would not be a ban on glass bottled products per se, merely on the serving of drinks in glass bottles. A ban would be based on risk assessment and would only be applied where necessary.
- 2.11 Wherever possible, applicants are expected to be aware of local groups known to incite violence or hatred or take part in extremist activities in order to prevent the likelihood of meetings resulting in crime and disorder. Licensees will be expected to take into consideration the potential impact on privacy or religious freedom and the ethnic and cultural composition of the local area when hosting these meetings. The Licensing Authority recognises the need to promote the elimination of unlawful discrimination and equality of opportunity. The Licensing Authority recommends licensees seek guidance from the Commission for Racial Equality website, <http://www.cre.gov.uk/> or by contacting them on 020 7939 0000.
- 2.12 In appropriate cases, and where its discretion is engaged, the Licensing Authority may attach conditions in line with the promotion of the Licensing Objectives, as listed in the core model conditions, relating to but not limited to:
- Use of text pagers
  - Door supervisors
  - Banning of bottles
  - Plastic containers and toughened glass
  - CCTV – to a standard required by Thames Valley Police
  - Preventing the taking of alcoholic and other drinks from the premises in open containers
  - Restriction on the hours of use of particular drinking areas (eg: gardens)
  - Capacity limits
  - Proof of age cards
  - Display of crime prevention notices
  - Irresponsible drinks promotions
  - Appropriate signage, for example: advertising the normal hours under the terms of the licence and/or, where appropriate, restrictions on admission of children
  - Ratio of tables and chairs to customers based on capacity

### **3. Licensing Objective 2: Public Safety**

- 3.1 When visiting licensed premises, members of the public have a right to be confident that due consideration has been given to their physical safety. Where an applicant identifies an issue in regard to public safety (including fire safety) which is not covered by existing legislation, the applicant should identify in their operating schedule the steps which will be taken to ensure public safety. Such steps will be dependent on the individual style and characteristics of the premises and/or event(s) to be held. Advice is available through the Bracknell Forest Borough Council website, or by contacting the Licensing Authority.
- 3.2 The Licensing Authority is committed to ensuring public safety across the Borough, by working in close partnership with Thames Valley Police, Royal Berkshire Fire and Rescue Service, and licensees.
- 3.3 In order to ensure public safety, the Licensing Authority will consider the attachment, where applicable, of a condition to the licence requiring the use of Door Supervisors, licensed by the Security Industry Authority, to control access to and egress from the premises during events.
- 3.4 Where applicable, the Licensing Authority will consider the attachment of a condition to the licence requiring the use of stewards whose role is not to carry out security activity but to provide advice and ensure the safety of those visiting the premises.
- 3.5 Where occupancy limits for a premises, or part of a premises, have been set by the Fire Authority, the Licensing Authority will not normally need to set a capacity limit by way of a licence condition because that would be to duplicate an existing control imposed under another regime.
- 3.6 Where the Fire Authority has not set an occupancy limit the Licensing Authority will, on the advice of the Fire Authority, consider setting an occupancy limit for premises wishing to supply alcohol on the premises to customers after 11pm and/or where regulated entertainment is provided, where this may be beneficial in the promotion of the Licensing Objectives.
- 3.7 The Licensing Authority has a Safety Advisory Group and, where appropriate, applicants are encouraged to seek the group's advice on issues of public safety. For example, a licensee who wishes to stage a licensable public event which is not specifically indicated in the Operating Schedule may be invited to approach the Safety Advisory Group.
- 3.8 When applying for licensable events on Local Authority property, the applicant may be required to present an event plan to Bracknell Forest Borough Council's Safety Advisory Group.
- 3.9 In the interests of public safety and to prevent accidents occurring, where appropriate applicants may be required as part of the licence conditions to provide toughened glass and/or plastic containers for refreshments. This may be particularly relevant for an auditorium, theatre, cinema, sporting occasion or outdoor event.
- 3.10 In the interests of public safety, nightclub owners and dance event promoters are encouraged to seek guidance to ensure the health and safety of anyone attending dance events from the Safer Clubbing Guide by visiting [www.drugs.gov.uk](http://www.drugs.gov.uk).
- 3.11 Where appropriate, there should be provision of drinking-water and trained first aiders with appropriate up-to-date training able to recognise the symptoms caused by the

combination of drugs (including controlled drugs) and alcohol, which can lead to overheating and exhaustion.

- 3.12 The licensee may have a responsibility to develop a Drugs Policy. Advice on methods of preventing the misuse of drugs and related matters can be sought from Bracknell Forest Borough Council's Drug Action team, eg the use of sharp boxes and personal protective equipment in the disposal of drug-related articles found on licensed premises.
- 3.13 The use of special effects such as lasers, pyrotechnics, smoke and foam machines can be dangerous. If it is intended to use any special effects, full details of when and how the effects will be used must be set out in the Operating Schedule and appropriate risk assessments of the location, use and type of special effects should be provided.
- 3.14 If at any time consideration is given to allowing onto the premises animals with the potential to cause harm, eg: animals specified in the Dangerous Wild Animals Act 1976 and Dangerous Dogs Act 1991, the Operating Schedule should set out the circumstances in which such animals would be admitted to the premises, purposes for which they would be there, and the steps which would be taken to ensure the safety of the public, both staff and patrons, while the animals are present.
- 3.15 In appropriate cases where there are no statutory requirements, and where its discretion is engaged, the Licensing Authority may attach conditions in line with the promotion of the Licensing Objectives, as listed in the core model conditions, relating to but not limited to:
- Disabled people – effective alarm and evacuation procedures
  - Maintenance of all escape routes and exits including external exits and routes
  - Safety checks and provision of log book
  - Curtains, hangings, decorations and upholstery – maintained and flame-retardant
  - Accommodation capacity limits
  - Fire action notices
  - Notification to fire control centre if water supply is cut off or restricted
  - Fire outbreaks – contacting the Fire Brigade and appropriate record-keeping
  - Access for emergency vehicles
  - First Aid equipment and the number of up-to-date trained first-aiders on site
  - Lighting
  - Monitoring and logging of noise levels by responsible personnel
  - Temporary electrical installation inspections and notification
  - Ventilation
  - Alterations to the premises
  - Use of special effects
  - Additional conditions may be attached to Theatres, Cinemas, Concert Halls and similar places
- 3.16 For indoor sports entertainment, or where special provision must be made for the safety of the public or club members and guests, the Licensing Authority may consider attaching conditions, such as, but not limited to:
- Provision of qualified medical practitioners throughout a sports entertainment
  - Where a ring is involved, that it be constructed by a competent person and inspected by a competent authority and any material used be flame retardant
  - Where there is wrestling or similar entertainment that the public do not occupy any seat within 2.5 metres of the ring

- Where there is a water sports event, appropriate provision of staff adequately trained in rescue and life safety to be made available who should remain in the vicinity at all times.

#### **4. Licensing Objective 3: The Prevention of Public Nuisance**

- 4.1 The Licensing Authority is committed to minimising the level of public nuisance in the Borough by working in close partnership with the Thames Valley Police, Planning, Environmental Health and licensees. The Licensing Authority interprets 'public nuisance' in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour.
- 4.2 Where premises are located near to noise-sensitive areas, e.g. residential premises, nursing homes, hospitals or places of worship, the licensee should initially identify any particular issues (having regard to their particular type of premises and/or activities) which are likely to adversely affect the promotion of the objective to prevent public nuisance. Such steps as are required to deal with these identified issues should be included within the applicant's operating schedule.
- 4.3 In considering applications, the Licensing Authority will expect to see, where appropriate, evidence that the following matters have been addressed in the Operating Schedule:
- (a) Measures taken or proposed to be taken to reduce noise and vibration escaping from the premises. This would include music, noise from fixed or mobile equipment (eg: air conditioning, generators), and human voices, whether or not amplified.
  - (b) Measures taken or proposed to be taken to prevent unreasonable disturbance by customers and staff arriving or departing from the premises and delivery of goods and services.
  - (c) Measures taken to control light to ensure that it does not stray outside the boundary of the premises so as to give rise to problems to local residents and businesses.
  - (d) In the absence of locally available public transport, sufficient provision for access to taxis and private hire services. For example, lists of licensed taxi companies displayed by the public telephone.
  - (e) Measures taken to encourage patrons to arrive and disperse quickly and quietly from the immediate vicinity of the premises. This might include, for example in nightclubs and discotheques, lowering the volume of the music and raising lights during the last 30 minutes before closing time.
  - (f) Measures taken to ensure the safe removal and dispersal of persons ejected from the premises.
  - (g) Measures to control nuisance that might be associated with the use of the external areas, particularly late at night.
- 4.4 Applicants should note that there are mechanisms other than the licensing regime that are available for addressing public nuisance away from the licensed premises. Examples include, but are not limited to:
- (a) Planning controls

- (b) CCTV surveillance
  - (c) The designation of restricted areas for consumption of alcohol
  - (d) Police enforcement
  - (e) Review of Licences and certificates
  - (f) Other local initiatives
- 4.5 The Licensing Authority, whilst recognising the need to treat every application on its own merits, should be satisfied that the type of Regulated Entertainment provided and hours of operation will be suitable for the location in which the premises are situated (eg: areas of dense residential accommodation).
- 4.6 In appropriate circumstances, to prevent public nuisance, the Licensing Authority will consider attaching a condition to the licence requiring the use of Door Supervisors, licensed by the Security Industry Authority, in order to control access to and egress from the premises during events.
- 4.7 The applicant will be expected to demonstrate within the Operating Schedule what actions will be taken to train staff on those measures necessary to stop customers consuming excessive amounts of alcohol whilst on the premises. The effective training of staff in alcohol abuse awareness is appropriate to meet the Prevention of Public Nuisance, Public Safety, and Prevention of Crime and Disorder Licensing Objectives.
- 4.8 In appropriate cases, and where its discretion is engaged, the Licensing Authority may attach conditions in line with the promotion of the Licensing Objectives, as listed in the core model conditions, relating to but not limited to:
- Hours – for example: restrictions on when licensable activities can take place, such as recorded/amplified music and/or speech, after a certain time in indoor and outdoor areas
  - Noise and vibration – abatement, monitoring and logging
  - Noxious smells
  - Light pollution
  - Litter

## **5. Licensing Objective 4: Protection of Children from Harm**

- 5.1 When addressing the protection of children, the applicant should initially identify any particular issues (having regard to their particular type of premises and/or activities) which are likely to cause concern in relation to children. Such steps as are required to deal with these identified concerns should be included within the applicant's operating schedule.
- 5.2 Applicants are required, where appropriate, to set out in the Operating Schedule the arrangements they have in place to prevent the sale of alcohol and illegal substances to children. This should include an age-monitoring scheme. The Licensing Authority would recommend that the licensee uses any of the following as an acceptable proof of age scheme:
- (a) Passport
  - (b) Photo Card driving licence issued in the European Union
  - (c) Proof of Age Standards Scheme Card (PASS)
  - (d) Official ID card issued by HM Forces or by a European Union country bearing a photo and date of birth of holder.



- 5.3 The Licensing Authority will expect applicants to set out in the Operating Schedule the measures that they will take to ensure that alcohol is not sold by persons under 18 unless specifically approved by a responsible person, or they are working as a waiter or waitress in a specially designated part of the premises and alcohol is sold only with a table meal.
- 5.4 Where there are off-licence sales, the Licensing Authority would expect the Operating Schedule to demonstrate how the licensee will discourage the sale of alcohol to customers on behalf of children in the vicinity. For example, if the licensee has any suspicions of this activity to ask the customer if they have been approached by children to purchase alcohol and if necessary contact the Police.
- 5.5 Applicants from retail outlets who use self scanning devices will be expected to demonstrate how they are going to control the sale and purchase of alcohol by persons under the age of 18.
- 5.6 Licensees retain the right to permit or not to permit children into their premises at any time. Where appropriate, applicants should state in the Operating Schedule:
- (a) whether or not they will admit children to the licensed premises;
  - (b) whether or not children will be admitted to all parts of the premises;
  - (c) where children are to be admitted, the steps that will be taken to protect children from harm, for example where deemed appropriate the provision of designated areas for children and families, age (below 18) and hour limitations.
- 5.7 Licensees are encouraged to inform the appropriate agencies where it has been highlighted that children have tried to purchase alcohol and illegal substances.
- 5.8 With regard to children, where appropriate licensees will be expected to consider and deal with in the Operating Schedule the risk of children being exposed to and the steps that will be taken to protect them from:
- (a) the purchase, acquisition and consumption of alcohol;
  - (b) likely exposure to drugs, drug-taking or drug-dealing;
  - (c) exposure to activities of an adult and/or sexual nature;
  - (d) exposure to incidents of violence and disorder.
- 5.9 Where appropriate, and particularly with regard to large public events, the Licensing Authority will expect to see in the Operating Schedule procedures for lost and found children.
- 5.10 The Operating Schedule should, in appropriate circumstances, set out the details of the training and information that will be provided for all staff responsible for the sale of intoxicating liquor in premises where children will be admitted.
- 5.11 Where events are taking place that are provided solely for children, for example an Under-18s disco, no alcohol will be served.
- 5.12 In appropriate cases, the Licensing Authority will expect the licensee to evidence how they will supervise children who are performing in a Regulated Entertainment event and what consideration will be given to the welfare of children as performers and customers. Where children are supervised, the Licensing Authority will expect the Operating Schedule to demonstrate that these supervisors have been appropriately checked by the Criminal Records Bureau.
- 5.13 Where there is a sale by retail of alcohol, the Licensing Authority would expect licensees to demonstrate in their Operating Schedule that they will observe industry best practice

guidance on the naming, packaging and promotion of alcoholic drinks to prevent children from being enticed into purchasing these products.

- 5.14 Protection of Children from Harm includes the protection of children from moral, psychological and physical harm and, in relation to the exhibition of films, or transmission of programmes or videos, this includes the protection of children from exposure to strong language and sexual content. In appropriate cases, the Licensing Authority will expect the licensee to evidence how they intend to prevent these occurrences. This concerns any activities of an adult nature, not just films and videos.
- 5.15 In relation to cinemas and places where films are shown, the Licensing Authority will expect the Operating Schedule to demonstrate that entry shall be controlled as part of an age-monitoring strategy.
- 5.16 The Licensing Authority proposes to abide by the recommendations of the British Board of Film Classification, but for the Protection of Children from Harm Licensing Objective the Licensing Authority reserves the right to re-classify any film, and information regarding such classifications will be published on Bracknell Forest Borough Council's website and advertised in the local press.
- 5.17 In appropriate cases, and where its discretion is engaged, the Licensing Authority may attach conditions in line with the promotion of the Licensing Objectives, as listed in the core model conditions, relating to but not limited to:
- Access for children to licensed premises
  - Specific age restrictions
  - Age restrictions in cinemas and theatres
  - Performances especially for children
  - Children in performances, eg: size of venue, fire safety, special effects, care of children
  - Proof of Age Cards
- 5.18 The Licensing Authority has named the Local Safeguarding Children Board as the responsible authority to advise on the protection of children from harm. The LSCB is judged by the Licensing Authority to be a competent body in relation to these matters.

## **PART B**

### **6. Premises Licences**

- 6.1 The Premises Licence will detail the operating conditions. The purpose of these conditions is to regulate the use of the premises for licensable activities in keeping with the Licensing Objectives. The Operating Schedule is essential so that the Licensing Authority and responsible authorities can establish what measures may be necessary to meet the four Licensing Objectives.
- 6.2 Where a premises licence is in force and an event outside of the normal Operating Schedule is taking place, the licensee is legally required to notify the Licensing Authority and Police no later than 10 working days prior to the event. However where possible, 3 months' notification of an event is advised to allow full consultation and consideration of the risks involved. More information about Temporary Event Notices can be found in Section 7. Where a premises licence is in force and a licensee wishes to amend the licence to have a particular licensable event on a regular basis, they should go through the variation process.

- 6.3 In the case of circuses, festivals and carnivals, where a Premises Licence or Temporary Event Notice is required, it is the responsibility of the event organiser to ensure that the appropriate licence or authorisation is in place.
- 6.4 The Licensing Authority encourages local Town and Parish Councils to seek premises licences for land or buildings under public ownership within the community. This could include village greens, market squares, community halls and similar public areas, thus allowing festivals, carnivals and circuses to take place and encouraging a livelier community.
- 6.5 The Licensing Authority will not require raffles and tombolas which include alcohol to be licensed provided that:
- (a) the proceeds are not for personal gain;
  - (b) there are no money prizes;
  - (c) alcohol is in a sealed container; and
  - (d) tickets are only sold at the place where the entertainment occurs.

If raffle tickets are sold prior to the event, a lottery registration under the Gambling Act 2005 will be required.

- 6.6 The Operating Schedule, which will form part of the Premises Licence, must include:
- (a) the name of the person (including a business or public body holding a licence);
  - (b) the address of the premises;
  - (c) the licensable activities to be conducted on the premises;
  - (d) the location of licensable activities on the premises (e.g. bar downstairs);
  - (e) the times during which it is proposed that the licensable activities are to take place;
  - (f) any other times when the premises are to be open to the public;
  - (g) where the licence is required only for a limited period, that period must be specified;
  - (h) where the licensable activities include the supply of alcohol, the name and address of the individual to be specified as the Designated Premises Supervisor;
  - (i) where the licensable activities include the supply of alcohol, whether the alcohol will be supplied for consumption on or off the premises or both;
  - (j) the licensed area identified by a scaled map;
  - (k) a scale drawing of the internal arrangements of the premises; and
  - (l) the steps which the applicant proposes to take to promote the Licensing Objectives.

The Operating Schedule should be precise and clear about the measures proposed to promote the licensing objectives.

- 6.7 In order to support the Licensing Objectives, the Licensing Authority would recommend that consideration be given to the training and development of staff. A range of qualifications covering staff development and risk assessments designed to support the Licensing Objectives are available from the British Institute of Innkeeping at [www.bii.org](http://www.bii.org).
- 6.8 There is a Standard Pool of Conditions that may be applied in appropriate circumstances. The Licensing Authority's discretion to impose conditions is engaged only if it receives a relevant representation. If relevant representations are made to the Licensing Authority and it is reasonably considered that the Licensing Objectives cannot be met unless additional specific conditions are attached, then the Licensing Authority may consider attaching those which are necessary and proportionate for the promotion of the Licensing Objectives. Licences are sought at very different scales and the Licensing Authority will apply a level of conditions proportionate to the individual style and characteristics of the

event or premises concerned. Where measures to promote the Licensing Objectives are included in the Operating Schedule, these will automatically be attached as conditions to the licence.

- 6.9 Prior to submitting an application, the Licensing Authority recommends that applicants seek advice and guidance on matters relating to the Licensing Objectives when completing their Operating Schedules. Details are available in the Guidance Notes for Applicants. This will ensure the application is processed efficiently and will reduce the likelihood of hearings.
- 6.10 Applicants for Premises Licences are expected to conduct a thorough risk assessment on the activities proposed at the premises, giving due consideration to the Licensing Objectives. The licensee will be expected to record the actions to be taken as a result of the risk assessment in their Operating Schedule. These actions may be used to form conditions attached to the licence and should therefore be clear, concise and unambiguous.
- 6.11 In determining the grant or variation of a licence, the following interested parties and responsible authorities may make representations:
- (a) Thames Valley Police
  - (b) Royal Berkshire Fire and Rescue Service
  - (c) Environmental Health
  - (d) Trading Standards
  - (e) Local Safeguarding Children Board
  - (f) Health and Safety Executive
  - (g) Persons living in the vicinity of the premises
  - (h) Bodies or persons representing persons living in that vicinity (this may include local Town and Parish Councils and Ward Councillors)
  - (i) Individuals involved in a business in the vicinity
  - (j) Bodies representing persons in such businesses
  - (k) Planning Authority
- 6.12 The Licensing Authority will consider any relevant representations received from these parties. Any of these individuals or groups may specifically request a representative to make representations on his or her behalf. This could be a legal representative, a friend, an MP or a Ward Councillor. However, a Ward Councillor who is a member of the Licensing and Safety Committee will be advised not to become involved in making either written or oral representations on behalf of constituents regarding matters covered by the Licensing Act 2003. In order for representations to be taken into account, they must concern at least one of the Licensing Objectives. Where a representation is made by an interested party, the Licensing Authority will decide if the representation is relevant and not vexatious or frivolous.
- 6.13 Where the responsible authorities and interested parties do not raise any representations, it is the duty of the Licensing Authority to grant the licence or certificate subject to the conditions of the operating schedule and any mandatory conditions of the Licensing Act 2003 itself.
- 6.14 The Licensing Authority may not impose any conditions unless its discretion has been engaged following the making of a representation and it has been satisfied at a hearing of the necessity of additional conditions based on the representations raised. It may then only impose such conditions as are necessary to promote the licensing objectives arising out of the consideration of the representations.

- 6.15 Hearings may be avoided when interested parties, licensees and responsible authorities arrive at an amicable solution to the issues raised through negotiation. The Licensing Authority will seek to facilitate such negotiation.
- 6.16 In determining the application the Licensing Authority will consider:
- (a) the case and evidence presented by all parties;
  - (b) the promotion of the four Licensing Objectives;
  - (c) guidance issued by central Government; and
  - (d) the Licensing Authority's own Statement of Licensing Policy.

#### Provisional Statements

- 6.17 Where a licensed premises is being constructed, extended or structurally changed, the applicant may apply for a provisional statement. This will be processed in the same way as a new licence application. However the provisional statement will not automatically be converted into a full licence on completion of works, and the applicant will have to go through the new licence application procedure. It is acknowledged that unless representations are made at the provisional statement stage, or are not made without reasonable excuse, and neither the premises/vicinity has changed nor the type of licensable activities taking place there, the licence will be granted.
- 6.18 The applicant will be required to submit a full schedule of works, including a statement of the licensable activities for which the premises are proposed to be used as well as the plans and proposed hours of use, in order to allow the Licensing Authority to make an informed decision.

#### Late-Night Refreshment

- 6.19 Where late-night refreshment is provided, applicants must demonstrate in their Operating Schedule how they will promote the Licensing Objectives.
- 6.20 Where appropriate, the Licensing Authority may recommend takeaway containers to display the company name in order for the Licensing Authority to identify sources of litter. Licensees are expected to provide waste disposal bins on or around the premises.

#### Mobile Premises

- 6.21 Where licensable activities are taking place from or in moveable vehicles they will require a Premises Licence and the Operating Schedule must indicate the specific pitch from which they will trade. This is in addition to other licensing requirements for mobile trading vehicles.
- 6.22 The Licensing Authority requires the Operating Schedule to demonstrate how the applicant will promote the Licensing Objectives.

#### Disability Access

- 6.23 Due regard is expected to be given to the Disability Discrimination Act 2004, particularly to access and egress for disabled persons.
- 6.24 The Licensing Authority has produced guidance on making the physical environment accessible to disabled people. Advice can be obtained from "Designing for Accessibility in Berkshire". Further information is available on the Council's website or at the Council offices in Time Square, Market Street, Bracknell, RG12 1JD.

## Cumulative Effect

- 6.25 Where the Licensing Authority receives relevant representations regarding the 'cumulative impact' of granting a licence, it will fully consider the effect it may have on the promotion of the Licensing Objectives, in particular Crime and Disorder and Public Nuisance, and make a decision accordingly.
- 6.26 If the Licensing Authority receives representation that a particular area of the Borough is reaching a concentration of licensed premises which is adversely affecting the promotion of the Licensing Objectives, it will consider the implementation of an additional policy after full consultation with all responsible bodies and examination of the supporting evidence.

## **7. Temporary Event Notices**

- 7.1 Where there is an event with less than 500 attendees which includes licensable activities for a limited period that is not otherwise authorised by a premises licence or club premises certificate, a Temporary Event Notice will need to be served on the Licensing Authority and Police. Temporary Event Notices are not applications for permission to hold an event, they are notices of intention to hold an event. If there are 500 or more attendees, an application must be made for a Premises Licence.
- 7.2 In accordance with the 2003 Act, any individual person aged 18 or over may give a Temporary Event Notice, whether or not they hold a personal licence. An individual who is not a personal licence holder may only give a Temporary Event Notice 5 times a year, and a personal licence holder no more than 50 times a year. However, no more than 12 Temporary Event Notices covering a maximum of 15 days may be given in respect of any particular premises in a single calendar year.
- 7.3 Organisers of temporary events are encouraged to submit their notice as soon as is reasonably practicable in order for the Police to consider whether or not they have any concerns about the event and, if they have, to enable all parties to try and take steps to resolve those concerns. In order for the Temporary Event Notice to be processed within the appropriate time frame, it is recommended that Temporary Event Notices are submitted to Bracknell Police Station, marked for the attention of the Licensing Officer.
- 7.4 Event organisers are advised to submit their notice to the Licensing Authority on a weekday and before 12 noon on a Friday to ensure a quick and efficient response. It is advised to submit the notice in an envelope marked for the urgent attention of the Licensing Section and for TEN to be written in red in the top right-hand corner.
- 7.5 Although the legal requirement is 10 working days, the Licensing Authority recommends that at least 3 months' notice be given to hold such events, to allow sufficient time for organisers to plan their events safely, for appropriate publicity and for consultation with responsible authorities and interested parties. Any longer period than this may mean that organisers do not have all the details available at the time of submitting the notice, and any lesser time means that planning may be rushed and haphazard.
- 7.6 The Licensing Authority recommends that organisers of a temporary event notify the Fire Authority of the event at the earliest opportunity to ensure that due regard is given to fire safety matters.
- 7.7 In the event of an objection from the Police, the Licensing Authority will hold a hearing and give a decision not less than 24 hours before the event is due to take place.

- 7.8 Organisers of events are reminded of the police powers to close down events with no notice on the grounds of disorder, the likelihood of disorder, or public nuisance. Therefore, the Licensing Authority expects organisers to be aware of the relevant offences under the Licensing Act 2003, for example sales of alcohol to children or to intoxicated persons.
- 7.9 Where exceptional events of local, national or international significance arise, for example a one-off local festival or World Cup, the Secretary of State may make a licensing order to open for specified extended hours. A minimum of 6 months' notice must be given to the Secretary of State so that consultation can take place and approval of both Houses of Parliament obtained.

## **8. Personal Licences**

- 8.1 Personal Licences, which are renewable every ten years, authorise individuals to sell or supply alcohol, or authorise the sale or supply of alcohol for consumption on or off a premises at which a Premises Licence is in force for that activity.
- 8.2 Personal Licence applicants with relevant unspent criminal convictions are required to notify the Licensing Authority of the nature of those convictions at the time of application.
- 8.3 Where the Police believe that the grant of a personal licence would undermine the crime prevention objective, they will issue an objection notice. The Licensing Authority will arrange for a hearing to take place at which the application will be determined.
- 8.4 It is an offence for a Personal Licence holder who is convicted of a relevant offence not to inform the issuing Licensing Authority in order that their licence can be amended.
- 8.5 Where a Personal Licence holder is convicted of a relevant offence during the period when their application is being considered, the licence holder is required to advise the Licensing Authority forthwith.
- 8.6 The syllabus for the personal licence qualification is available on the Department of Culture, Media and Sport (DCMS) website, which can be found at [www.culture.gov.uk](http://www.culture.gov.uk). The syllabus sets out the structure for any course that will result in a licensing qualification. Details of those bodies which are accredited to award licensing qualifications are available on the DCMS website.
- 8.7 The Act requires a Designated Premises Supervisor to be nominated who is also a Personal Licence holder, the main purpose being to ensure that there is always one specified individual who can be swiftly identified in cases of emergency. The Designated Premises Supervisor should be an individual who is in charge of the day-to-day running of the premises.
- 8.8 There is no strict legal requirement for the Designated Premises supervisor to be on the premises at all times, but all sales of alcohol must be authorised by either a Personal Licence holder on the premises, or by the Designated Premises Supervisor either on the premises or under authority that has been delegated.
- 8.9 The Licensing Authority recommends that if the Designated Premises Supervisor authorises persons to make sales of alcohol, that this is done in writing, that the document of authorisation is kept on the premises and that the duty manager is made aware of the location of the document. Where the Designated Premises Supervisor Licence holder has delegated responsibility for the sale of alcohol, they still have a duty of responsibility for the action of those they have authorised to make those sales.

- 8.10 Where the Designated Premises Supervisor is not available at the premises for whatever reason, the Licensing Authority will expect his or her full contact details to be available at the premises and made known to at least one individual who will be present at the premises. For example, this would apply to local organisations and groups renting shared community facilities where the Designated Premises Supervisor is a caretaker of the building, not normally present during operational hours when the community hall is in use but who is otherwise in charge of the premises.
- 8.11 The Premises Licence will specify the name of the Designated Premises Supervisor. It is the responsibility of the Premises Licence holder to notify the Licensing Authority immediately of any change of the Designated Premises Supervisor.
- 8.12 Where there is to be a new Designated Premises Supervisor, the Licensing Authority will require the Premises Licence holder to evidence that the individual concerned consents to taking on the role and to notify the Police of the application within 7 days. In this case, the whole Premises Licence does not have to be submitted for amendment, only the relevant part of the licence.

## **9. Club Premises Certificates**

- 9.1 In order for Qualifying Clubs to supply alcohol and provide other licensable activities on club premises, a Club Premises Certificate is required.
- 9.2 Qualifying conditions are specified in Section 61 of the Act and the Licensing Authority must be satisfied that these conditions have been met, including evidence to support that the club is non-profit making.
- 9.3 The Licensing Authority will require the club to produce an Operating Schedule, which demonstrates how it will promote the Licensing Objectives. The Operating Schedule, which will form part of the Club Premises Certificate, must include:
- (a) the name of the club;
  - (b) the address which is to be the relevant registered address;
  - (c) the address of the club premises to which the certificate relates;
  - (d) the qualifying club activities that will take place on the premises;
  - (e) the location of qualifying club activities on the premises (e.g. bar downstairs);
  - (f) the times at which the qualifying club activities will take place;
  - (g) other times that the premises is open to members and guests;
  - (h) where the supply of alcohol is involved, whether supplies will be made for consumption on or off the premises or both;
  - (i) a plan of the premises drawn to scale; and
  - (j) the steps which the applicant proposes to take to promote the Licensing Objectives.
- 9.4 The Act does not require any member or employee to hold a Personal Licence in order to supply alcohol to members or sell alcohol to guests on the premises to which the certificate relates, nor is there a requirement for the club to specify a Designated Premises Supervisor. However, the Licensing Authority will require the Club Secretary's contact details to be readily available in the event of an emergency.
- 9.5 Where a Club intends to admit the general public to a an event where licensable activities will take place, then a Premises Licence or a Temporary Event Notice will be required. Where alcohol is sold and there is a Premises Licence, then there will also be a requirement for a person holding a Personal Licence to be specified as the Designated Premises Supervisor.



- 9.6 If an applicant wishes to vary a Club Premises Certificate, the Act requires the application to be processed in the same manner as for a Premises Licence.

## **PART C**

### **10. Appeals**

- 10.1 Where any condition, decision or relevant representation aggrieves an applicant, there is a right of appeal. This appeal must be lodged within a period of 21 days from the day on which the applicant was notified by the Licensing Authority of the decision and must be made to the Justices' Chief Executive of the Magistrates' Court, at East Berkshire Magistrates Court, The Law Courts, Chalvey Park, Off Windsor Road, Slough, Berkshire, SL1 2HJ.
- 10.2 In respect of Personal Licences, appeals must be made to the Magistrates' Court in the area where the licence was issued. Appeals in relation to all other licences must be made to the Magistrates' Court where the premises or event is situated.

### **11. Complaints against Licensed Premises**

- 11.1 All complaints and representations should be addressed to the Licensing Section, Bracknell Forest Borough Council, Time Square, Market Street, Bracknell, RG12 1JD or [licence.all@bracknell-forest.gov.uk](mailto:licence.all@bracknell-forest.gov.uk).
- 11.2 All relevant complaints against premises licensed by the Licensing Authority will be investigated by the Licensing Authority. Whilst complainants will be encouraged to raise any concerns directly with the licensee or business concerned, they will additionally be encouraged to bring the matter to the attention of the Licensing Authority. Where it is a valid complaint, the Licensing Authority will endeavour to seek a resolution through informal means.
- 11.3 The Licensing Authority is responsible for considering representations in the context of this Policy and legal requirements in order to determine whether they are relevant. The Licensing Authority authorises suitably qualified staff to discharge duties as appropriate to their seniority, professional qualification and/or experience.
- 11.4 Where it is considered a relevant representation, the Licensing Authority shall ensure that the issue is investigated and enforcement action taken where necessary.
- 11.5 Where a representation is received from an interested party, the Licensing Authority may consider a representation to be frivolous or vexatious. The Licensing Authority may also consider the representation to be 'irrelevant' if it does not directly relate to the application and to the promotion of the Licensing Objectives. If the decision is made that a representation is frivolous, vexatious, and/or irrelevant, the person making the representation will be informed of this in writing with full reasons being given for the decision.
- 11.6 The Licensing Authority recognises that promotion of the Licensing Objectives relies on partnership between licensees, authorised persons, interested parties and responsible authorities. Where there are any concerns or problems identified at the premises or there is need for improvement, authorised persons and responsible authorities will work closely with the licensees at an early stage to address these concerns.

- 11.7 The details of the objector or objectors will be made known to the licensee if his or her representations are deemed relevant and are to be heard in a public domain.

## **12. Enforcement**

- 12.1 In order to ensure compliance with the law and licensing conditions, the Licensing Authority will carry out regular programmed inspections, based on risk assessments. During performance inspections will be carried out without notification to the Premises Licence holder based on risk assessment and complaint history. Where one-off events are taking place, the Licensing Authority may also carry out inspections to ensure the Licensing Objectives are being promoted. Inspection and enforcement will take into account the principles set out in the Hampton report "Reducing Administrative Burdens".
- 12.2 The Licensing Policy has been written in conjunction with the Licensing Authority's Enforcement Policy. This Enforcement Policy has been adopted in accordance with the principles of consistency, transparency, proportionality and objectivity set out in the Enforcement Concordat.
- 12.3 Any decision to instigate legal proceedings will take account of the criteria set down in the Code of Crown Prosecution and Attorney General Guidelines.
- 12.4 The Licensing Authority's Enforcement Policy is available on the Bracknell Forest Borough Council website [www.bracknell-forest.gov.uk](http://www.bracknell-forest.gov.uk) and from the offices of the Environment, Culture & Communities Department, Time Square, Market Street, Bracknell, RG12 1JD.

## **13. Licensing and Safety Committee**

- 13.1 Decisions on all licensing matters will be taken in public in accordance with an approved scheme of delegation (see Annex B) aimed at underlining the principles of timely, efficient and effective decision-making.
- 13.2 The Licensing Committee will consist of between 10 and 15 members. Licensing Panels of 3 Committee members will determine any applications where relevant representations have been received from responsible authorities and interested parties.
- 13.3 Where there are no relevant representations received in respect of an application for a Premises Licence or a Club Premises Certificate, the Act provides that this application shall be granted with no further conditions other than those stipulated as mandatory in the Act or issues raised in the operating schedule.
- 13.4 Where there are relevant representations received in respect of an application for a Premises Licence or a Club Premises Certificate, the application will be referred to the Licensing Panel.
- 13.5 Where no objection notice is received from the Police in respect of a Temporary Event Notice, the event may take place as proposed.
- 13.6 Where an objection notice is received from the Police in respect of a Temporary Event Notice, the matter will be referred to the Licensing Panel.
- 13.7 The decision determined by the Panel shall be accompanied with clear, cogent reasons for that decision, having had due regard to the Human Rights Act 1998 and all other legislation. A summary of the decision shall be posted on the Licensing Authority's

website as soon as is reasonably possible after the decision has been confirmed. This will form part of the statutory licensing register which is kept by the Licensing Authority.

#### **14. Applications for Review**

- 14.1 A Review of a Premises Licence represents a key protection for the community where problems associated with the Licensing Objectives are occurring after the grant or variation of a premises licence. Where a request to review the licence is made by a responsible authority, the Licensing Authority will hold a hearing, unless the Licensing Authority, the licence holder and responsible authority agree that a hearing is not necessary.
- 14.2 Where the request originates from an interested party (e.g. a local resident, residents association, local business or trade association) the licensing authority must first consider whether the request for review is relevant, vexatious, frivolous or repetitious. A Licensing Authority may refuse an application for a review on any of the above grounds and will give reasons to the applicant for such a refusal.

#### **15. Policy Review**

- 15.1 The Policy takes effect on 7 January 2011 and will remain in force for not more than 3 years. It will be subject to periodic reviews and further consultation.
- 15.2 The Licensing Authority is required to review its Licensing Policy Statement every 3 years and shall take into account the views of:
- (a) Responsible Authorities
  - (b) Holders of Premises and Personal Licences and Club Premises Certificates
  - (c) Local businesses, residents and representatives of these bodies
  - (d) Guidance issued by the Secretary of State under section 182 Licensing Act 2003.

## Neighbour Notification Policy

Neighbour notification seeks to ensure that those persons within the Borough who live immediately next to or opposite

- a licensed premises, or
- the proposed site for a licensed premises

are notified when there is a licence application related to that premises or site. Neighbour notification will allow immediate neighbours an opportunity to consider the application and respond if appropriate.

This process applies to any of the following:

- Application for new premises licence
- Application to vary premises licence
- Application for new club premises certificate
- Application to vary club premises certificate
- Application for new gambling premises licence
- Application to vary gambling premises licence
- Application for a review of a licence

The use of notification letters is in addition to the statutory requirements that are already in place for applicants to advertise applications in a local newspaper and on a blue notice outside the premises. The letter will contain the name of the premises, brief details of the application and how to get further information or make representations, as detailed on the public notices posted at the premises.

### Properties to be notified

Properties to be notified are as follows:

- Properties sharing a common boundary with the premises, including outside areas
- Properties immediately in front of premises (opposite side of road)

The Licensing Officer will use judgement in circumstances where:

- Other parties, not identified as above, may reasonably be considered to be affected.
- Distances between buildings, or other circumstances, are such that notification in precise accordance with the above guidance is considered unnecessary.

**DELEGATION OF FUNCTIONS**

Following approval by the Licensing and Safety Committee on 13 December 2004, delegated authority will be as follows.

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Licensing Panel</b>	<b>Officers</b>
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Applications for interim authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a police objection to a temporary event notice		All cases	

## LICENSING ACT 2003 GLOSSARY

<b>Authorised Persons</b>	<p>Bodies empowered by the Act to carry out inspection and enforcement roles. This group includes:</p> <ul style="list-style-type: none"> <li>• Fire Authority Inspectors</li> <li>• Inspectors responsible for the Health and Safety at Work Act 1974</li> <li>• Environmental Health Officers</li> <li>• Social Services officers responsible for the Protection of Children from Harm</li> </ul> <p>Thames Valley Police are separately empowered.</p>
<b>Capacity Limit</b>	<p>Where the Licensing Authority and/or Fire Authority have set a limit on the number of people allowed in a premises or part of a premises, to prevent overcrowding which can lead to crime and disorder and concerns over public safety.</p>
<b>Child</b>	<p>Any person who is under the age of 18 years.</p>
<b>Club Premises Certificate</b>	<p>A certificate authorising the supply of alcohol to members of a Qualifying Club, the sale of alcohol to guests on the premises and the provision of regulated entertainment without the need for any member or employee to hold a Personal Licence.</p>
<b>Council</b>	<p>As far as this Policy is concerned, any reference to the Council shall be interpreted as the Licensing Authority.</p>
<b>Cumulative Impact</b>	<p>Where there is a potential impact on the promotion of the Licensing Objectives due to a significant number of licensed premises concentrated in one area.</p>
<b>Designated Premises Supervisor</b>	<p>A specified individual, holding a Personal Licence, who is responsible for the day-to-day running of the business and whose name will appear on the Premises Licence.</p>
<b>Interested Parties</b>	<p>Bodies or individuals who are entitled to make relevant representations or seek a review of a Premises Licence. This group includes:</p> <ul style="list-style-type: none"> <li>• A person, or body representing persons, living in the vicinity of the premises in question.</li> <li>• A person involved in a business in the vicinity of the premises in question.</li> <li>• A body representing persons involved in such businesses, eg: a trade association.</li> </ul>
<b>“In the vicinity of”</b>	<p>Whether or not an individual resides “in the vicinity of” the licensed premises is ultimately a matter of fact to be decided by the courts, but initially licensing authorities must decide if the individual or body making a representation qualifies as an interested party. In making their decision, licensing authorities should consider, for example, whether the individual’s residence or business is likely to be directly affected by disorder and disturbance occurring or potentially occurring on those premises or immediately outside the premises. In essence, the decision will be approached with common sense and individuals</p>

	living and working in the neighbourhood or area immediately surrounding the premises will be able to make representations.
<b>Late-Night Refreshment</b>	The supply of hot food and drink between the hours of 23.00 and 05.00 for consumption on or off the premises.
<b>Licence Types</b>	<ul style="list-style-type: none"> <li>• Premises Licence</li> <li>• Club Premises Certificate</li> <li>• Personal Licence</li> <li>• Provisional Statement</li> <li>• Temporary Event Notice</li> </ul>
<b>Licensable Activities</b>	<ul style="list-style-type: none"> <li>• The sale of alcohol by retail</li> <li>• The supply of alcohol by or on behalf of a club to, or to the order of, a member of a club</li> <li>• The provision of regulated entertainment</li> <li>• The provision of late night refreshment</li> </ul>
<b>Licensing Objectives</b>	<ul style="list-style-type: none"> <li>• Prevention of Crime and Disorder</li> <li>• Public Safety</li> <li>• Prevention of Public Nuisance</li> <li>• Protection of Children from Harm</li> </ul>
<b>Licensing Qualification</b>	Qualification accredited by the Secretary of State and a requirement for a Personal Licence.
<b>Operating Schedule</b>	<p>This forms part of the completed application form for a Premises Licence and must promote the Licensing Objectives.</p> <p>It must include:</p> <ul style="list-style-type: none"> <li>(a) the relevant licensable activities;</li> <li>(b) the name and address of the person holding the licence;</li> <li>(c) the name of the premises;</li> <li>(d) the times during which the applicant proposes that the relevant licensable activities are to take place;</li> <li>(e) any other times during which the applicant proposes that the premises are to be open to the public;</li> <li>(f) the location of licensable activities on the premises;</li> <li>(g) where the applicant wishes the licence to have effect for a limited period, that period;</li> <li>(h) where the relevant licensable activities include the sale by retail of alcohol, prescribed information in respect of the individual whom the applicant wishes to have specified as the Designated Premises Supervisor;</li> <li>(i) whether the relevant licensable activities include the supply of alcohol, whether such sales are proposed to be for consumption on the premises on or off the premises, or both;</li> <li>(j) the licensed area identified by a scaled map;</li> <li>(k) a scale drawing of the internal arrangements of the premises;</li> <li>(l) the steps to promote the Licensing Objectives.</li> </ul>
<b>Personal Licence</b>	A Licence to authorise individuals to sell or supply alcohol or authorise the sale or supply of alcohol for consumption on or off the premises for which a Premises Licence is in force for the carrying on of that activity. Valid for 10 years.

<b>Premises Licence</b>	A licence in respect of any premises, including land or buildings under public ownership within the community that are to be used for one or more licensable activities. Valid for an indefinite period unless revoked or surrendered.
<b>Proprietary Clubs</b>	Clubs run by individuals, partnerships or businesses for the purpose of making a profit.
<b>Provisional Statement</b>	Where premises are being constructed or extended or substantial structure changes are proposed.
<b>Qualifying Club</b>	<p>Where members have joined together for particular social, sporting or political purposes and then combine to buy alcohol in bulk as members. Examples of Qualifying Clubs are:</p> <ul style="list-style-type: none"> <li>• Conservative, Labour and Liberal Clubs</li> <li>• Royal British Legion</li> <li>• Ex-Servicemen's Club</li> <li>• Working Men's Clubs</li> <li>• Social and Sports Clubs</li> </ul> <p>A Qualifying Club can, however, obtain a Premises Licence if it wishes to offer its facilities commercially for use by the general public.</p>
<b>Regulated Entertainment</b>	<p>Entertainment that is provided to members of the public or to members of a qualifying club, or entertainment held with a view to profit. This includes:</p> <ul style="list-style-type: none"> <li>(a) Performance of a play</li> <li>(b) An exhibition of a film</li> <li>(c) Indoor sporting event</li> <li>(d) Boxing or wrestling entertainment (indoors or outdoors)</li> <li>(e) Performance of live music</li> <li>(f) Any playing of recorded music, except incidental</li> <li>(g) Performance of dance</li> </ul>
<b>Relevant Offences</b>	As set out in Schedule 4 to the Licensing Act 2003.
<b>Relevant Representations</b>	Representations (objections) made by interested parties and responsible authorities.
<b>Responsible Authorities</b>	<p>This group can make representations and includes public bodies such as:</p> <ul style="list-style-type: none"> <li>• The Chief Officer of Police</li> <li>• The Fire Authority</li> <li>• The Local Enforcement Agency for the Health and Safety at Work etc Act 1974</li> <li>• The Local Authority (Environmental Health, Planning)</li> <li>• Any body that represents those who are responsible for, or interested in, matters relating to the Protection of Children from Harm. At the date of publication, the Local Safeguarding Children Board has delegated responsibility for this function to Thames Valley Police.</li> <li>• Any Licensing Authority, other than the originating Licensing Authority, in whose area part of the premises are situated.</li> </ul>



<b>SAG</b>	Safety Advisory Group. An advisory body whose purpose is to offer advice and guidance on event organisation.
<b>Temporary Event Notice</b>	A notice of intention to carry on of the sale of alcohol, provision of regulated entertainment or late night refreshment at a premises not otherwise authorised by a Premises Licence or Club Premises Certificate. This Notice is subject to certain limitations as laid down by the Licensing Act 2003.

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**List of Consultees**

- Association of Convenience Stores
- Association of Licensed Multiple Retailers
- Bingo Association
- Bracknell Forest Community Safety Partnership
- British Amusement Catering Trade Association
- British Institute of Inn Keeping
- British Beer and Pub Association
- **Committee of Registered Club Associations**
- **Federation of Licensed Victuallers Associations**
- Guild of Master Victuallers
- Involve
- Local businesses and their representatives, e.g. Bracknell Regeneration Partnership, Bracknell Forest Chamber of Commerce
- Local residents and community associations
- Members of Bracknell Forest Council
- National Federation of Community Organisations
- Parish and Town Councils
- Premises licence / club premises certificate holders
- Pub & Drug Watch
- Responsible Authorities including Thames Valley Police, Royal Berkshire Fire and Rescue Service, Trading Standards, Environmental Health and Public Health
- Drug and Alcohol Action Team
- Society of Licensed Victuallers

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**TO: LICENSING AND SAFETY COMMITTEE  
11 JUNE 2015**

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**REVIEW OF STATEMENT OF GAMBLING PRINCIPLES  
Chief Officer: Environment and Public Protection**

**1 PURPOSE OF REPORT**

- 1.1 The purpose of this report is to advise the Committee of the proposed timetable to review the Council's Statement of Gambling Principles ('Statement') as attached Annex A.

**2 RECOMMENDATION**

**2.1 That the Committee:**

- i) **approves the proposed timetable as set out in paragraph 5.3; and**
- ii) **agrees the proposed consultee list at Annex B.**

**3 REASONS FOR RECOMMENDATION(S)**

- 3.1 Under the Gambling Act 2005, the Council is required to review and consult upon its Statement three years from the date of adoption. The present Statement was published on 31 January 2013 and therefore must undergo a review and be re-published on or before 31 January 2016.
- 3.2 The Statement must be produced following consultation with those bodies and persons set out in subsection (3) of section 349. This includes the Chief Officer of Police, persons who represent the interests of persons carrying on gambling businesses in the area and persons who represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.

**4 ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 There are no alternative options as the consultation and revision of the Statement are legal requirements.

**5 SUPPORTING INFORMATION**

- 5.1 Section 349 of the Gambling Act 2005 requires all licensing authorities to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act. The Statement will last for a maximum of three years and can be reviewed and revised by the authority at any time.
- 5.2 It is recommended that the consultation should be in accordance with Government best practice, including allowing 12 weeks for responses to the consultation. Whilst this is not a legal requirement, a failure to consult in an appropriate manner could be grounds for a subsequent legal challenge to the Statement.
- 5.3 To enable the Statement to be reviewed and published in accordance with the legislation, the following timetable is recommended:

June 2015 - Sept 2015      Consultation period

8 October 2015	Report to Licensing and Safety Committee on the consultation with draft Statement for comment and approval
18 November 2015	Report to CMT on consultation responses received with draft Statement for comment and approval
15 December 2015	Report to Executive for approval to take draft Statement to Full Council
20 January 2016	Draft Statement to Full Council
31 January 2016	New Statement published and comes into force

## **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 list of proposed consultees is attached at **Annex A** but any person may comment on the consultation.

### Method of Consultation

- 7.2 The consultation will take place via the Council's public consultation portal. Details of the consultation will be sent to those listed in Annex A via email.

### Representations Received

- 7.3 Not applicable at this stage.

### Background Papers

None

### Contact for further information

Laura Driscoll, Licensing Team Leader, 01344 352517  
[laura.driscoll@bracknell-forest.gov.uk](mailto:laura.driscoll@bracknell-forest.gov.uk)



# Statement of Gambling Principles

**JANUARY 2013**

**GAMBLING ACT 2005  
SI 2006 No 637**

**BRACKNELL FOREST BOROUGH COUNCIL  
STATEMENT OF GAMBLING PRINCIPLES**

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## **1 STATEMENT OF GAMBLING PRINCIPLES**

### **1.1 Introduction**

The Gambling Act 2005 (referred to in this document as “the Act”) requires the Council to prepare and publish a Statement of Gambling Principles (“Statement”) that sets out the policies that the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act.

This Statement has been prepared having regard to the licensing objectives of the Act, the Guidance to Licensing Authorities issued by the Gambling Commission, and any responses from those consulted on the Statement. A list of those consulted can be found at Appendix A. The full list of comments made and the consideration by the Council of those comments is available on request.

The Statement will come into effect on the 31 January 2013 and will be reviewed as necessary, and at least every 3 years from the date of adoption.

This Statement is not intended to override the right of any person to make an application under the Act, and to have that application considered on its merits. Equally, the Statement is not intended to undermine the right of any person to make representations about an application or to seek a review of a licence where provision has been made for them to do so.

### **1.2 The Borough of Bracknell Forest**

Bracknell Forest lies 28 miles west of London, at the heart of the Thames Valley. The borough covers 109 sq km of central Berkshire and includes the former New Town of Bracknell, together with Sandhurst town and the villages of Crowthorne and Binfield, along with a number of smaller settlements across Warfield and Winkfield. The area has easy access to the motorway network (M3, M4, M40 and M25), Heathrow, and direct train links into London. A map can be found at Appendix B.

The Borough’s population is 116,500 (mid-year 2010 estimate). Between 1991 and 2001, this grew twice as fast as the average for South East England (14% compared to 7%). The population growth rate has slowed from this since 2001 whereas the demand for increased number of households causes pressure for more housing. The population is relatively young (median age 37.9 years compared to England 39.5 years). Only 14.7% of the population is of pensionable age, compared to 19.3% nationally, although this is expected to grow.

Bracknell Forest is one of the least deprived areas of the country (ranked 291 out of 326 local authorities in England on the Index of Multiple Deprivation 2010). Property prices and levels of car ownership are significantly higher than the national average and average free school meals eligibility remains relatively low in the national context (7.8% in 2011). However, these headline figures mask significant pockets of deprivation. For instance, eleven primary schools have free school meal eligibility in excess of 10%. 11% of 0-16 year olds in the borough are living in poverty, compared to a national average of 21.6%. However, there are six wards in the borough that have child poverty rates higher than the national average with the highest ward rate being 23%.

Bracknell Forest is within the relatively economically buoyant Thames Valley and the aspiration is to maintain a vibrant local economy throughout the borough, and in particular to protecting the local economy as far as possible during the downturn.

The number of people claiming Job Seekers' Allowance rose to a peak of 2.6% in August 2009 due to the recession, but has since fallen again and has remained steady for the last 12 months. The figure was 2.2% in August 2011, and the proportion remains lower than both the national and south east averages.

The economic downturn has also had a significant impact on the proportion of young people in education, employment or training. During the quarter November 2010 to January 2011 (as reported to the Dept for Education), the proportion of young people aged 16-18 in Bracknell Forest who were not in education, employment or training (NEET) was 6.1% (typically this represents around 130 young people). This remains a key priority for the area. An overriding ambition for the economy is to regenerate Bracknell Town Centre as soon as possible to create a centre which provides a vibrant economic, social and cultural heart to the Borough and a real sense of place.

### **1.3 Licensing Objectives**

This licensing authority is aware that, as per Section 153 of the Act, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it:

- in accordance with any relevant Codes of Practice issued by the Gambling Commission;
- in accordance with any relevant Gambling Commission guidance;
- reasonably consistent with the licensing objectives;
- in accordance with this Statement of Gambling Principles.

There are three licensing objectives which are central to the Act. These are:

- Preventing gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way;
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

### **1.4 Licensable Activities**

'Gambling' is defined in the Act as either gaming, betting, or taking part in a lottery.

- Gaming means playing a game of chance for a prize
- Betting means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not
- A lottery is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance.

The Act provides for three categories of licence:

- Operating licences
- Personal licences
- Premises licences.

The Gambling Commission is responsible for remote (online) gambling, operating licences and personal licences.

This licensing authority is responsible for issuing premises licences and provisional statements for the following types of premises:

- Casinos
- Bingo premises
- Betting premises and tracks
- Adult gaming centres
- Family entertainment centres.

Additional functions of this licensing authority are to:

- issue permits for gambling and gaming machines in clubs
- receive notifications from alcohol licensed premises of the use of up to 2 gaming machines and issue licensed premises gaming machine permits where there are more than 2 machines
- issue permits to family entertainment centres for the use of certain lower stake gaming machines
- issue permits for prize gaming
- receive and endorse temporary use notices
- receive occasional use notices for betting at tracks
- register small society lotteries
- provide details of licences issued to the Gambling Commission
- maintain registers of the permits and licences that are issued under the Act.

### **1.5 Responsible Authorities**

Responsible authorities must be notified of all premises licence applications and are entitled to make representations if they are relevant to the licensing objectives.

Section 157 of the Act defines those authorities as:

- Gambling Commission
- Police
- Local Fire Authority
- Local Planning authority
- Environmental Health
- Child Protection Committee
- HM Revenue and Customs
- A licensing authority in whose area the premises is situated.

The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:

- The need for the body to be responsible for an area covering the whole of the licensing authority's area, and
- The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

This authority designates the Bracknell Area Child Protection Committee for this purpose.

The contact details of all the responsible authorities under the Gambling Act 2005 are available at: <http://www.bracknell-forest.gov.uk/licencegamblingpremises>.

## 1.6 Interested Parties

Interested parties can make representations about licence applications, or apply for a review of an existing licence. Interested parties making representations will be required to relate their objection to one or more of the licensing objectives.

An interested party is someone who:

- lives sufficiently close to the premises to be likely to be affected by the authorised activities, or
- has business interests that might be affected by the authorised activities, or
- represents persons in either of the two groups above.

In determining whether someone lives sufficiently close to particular premises so as to be affected the licensing authority will take into account, amongst other things:

- the size and nature of the premises
- the distance of the premises from the person making the representation
- the nature of the complaint
- the potential impact of the premises.

In determining whether a person has a business interest which could be affected, the licensing authority will consider, amongst other things:

- the size of the premises
- the catchment area of the premises, and
- whether the person making the representation has business interests in the catchment area that might be affected.

The term "business interests" is given the widest possible interpretation and includes partnerships, charities, faith groups and medical practices.

If an existing gambling business makes a representation that it is going to be affected by another gambling business starting up in the area, the licensing authority would not consider this as a relevant representation as it does not relate to the licensing objectives and instead relates to demand or competition.

The licensing authority may, in certain circumstances, consider a representation to be either frivolous or vexatious. This will generally be a matter of fact given the circumstances of each individual case but, before coming to a decision, the licensing authority will normally consider:

- who is making the representation and whether there is a history of making representations that are not relevant,
- whether it raises a 'relevant' issue or not, or
- whether it raises issues specifically concerning the premises which is the subject of the application.

The Council, in undertaking its licensing function, will have due regard to the need to eliminate unlawful discrimination and to promote equality and good relations between persons of different racial groups.

Where an interested party has made either a valid representation about a licensed premises or a valid application for a licence to be reviewed, the licensing authority may initially arrange a mediation meeting to address and clarify the issues of concern. This process will not override the right of any interested party to ask that the Licensing Committee consider their valid objections or for any licence holder to decline to participate in a mediation meeting.

### **1.7 Information Exchange**

This licensing authority will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

Details of those persons making representations will be made available to applicants to allow for negotiation and, in the event of a hearing being held, will form part of a public document. Anyone making representations or applying for the review of a premises licence will be informed that their details will be disclosed.

### **1.8 Enforcement**

The Council is a signatory to the National Enforcement Concordat and will follow the principles set out in it. It is based around the principles of consistency, transparency and proportionality and proposes that a graduated response is taken where offences or breaches are found.

This licensing authority has adopted and implemented a risk-based inspection programme, based on:

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission
- The principles set out in this Statement.

The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for operating and personal licences.

As per the Gambling Commission's Guidance, this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible. The licensing authority will establish a close working relationship with the Police, the Gambling Commission and, where appropriate, other responsible authorities.

The licensing authority will investigate complaints against licensed premises in relation to matters relating to the licensing objectives for which it has responsibility. In the first instance, complainants will be encouraged to raise the complaint directly with the licence holder or business concerned to seek a local resolution.

## 2 PREMISES LICENCES

### 2.1 General Principles

A licence can only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use. If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:-

- First, whether the premises ought to be permitted to be used for gambling
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

In the Act, "premises" is defined as including "any place". A single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as shopping malls to obtain separate premises licences, where appropriate safeguards are in place. This licensing authority will take account of the Gambling Commission's guidance in respect of this matter and the mandatory conditions relating to access between premises.

When determining an application for a premises licence or review a premises licence, regard will be had to the proximity of the premises to schools, vulnerable adult centres or residential areas where there may be a high concentration of families with children. The proximity of premises taken into consideration will vary depending on the size and scope of the gambling premises concerned. Each case will, however, be decided on its merits. Therefore, if an applicant can effectively demonstrate how they might overcome any concerns, this will be taken into account.

In determining an application, the licensing authority may not have regard to the expected demand for the facilities which it is proposed to provide.

Applications for the granting, transfer or variation of a premises licence will be expected to be accompanied by an assessment that demonstrates how the applicant will promote the licensing objectives in the form of a written operating schedule. The licensing authority can provide advice on the level of detail required, which will be proportional to the scale and nature of the application made.

Premises licences are subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

When considering any conditions to be attached to licences, the licensing authority will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in

the area concerned. Conditions (other than default conditions and those required by law) will only be attached where they are needed to meet the requirements of the licensing objectives and are within the control of the licensee. Any conditions applied will not be overly onerous and will be proportionate to the scale of the application and the risks involved. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

The licensing authority recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises, including:

- Planning controls
- Ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council departments
- Regular liaison with the Police on law enforcement issues regarding disorder and anti-social behaviour
- The power of the Police, other responsible authorities or local residents and businesses to seek a review of the licence.

The licensing authority will not seek to use the Act to resolve matters more readily dealt with under other legislation, and will seek to avoid any duplication with other regulatory systems where possible. For example, the licensing authority will not take into account whether a premises has the appropriate planning or building consents, nor will it take into account fire or health and safety risks.

Where children and other vulnerable people are allowed access to premises where gambling takes place, the licensing authority may take such steps as are lawful and necessary to either limit access generally or by introducing measures to prevent under-age gambling. The licensing authority will not normally seek to limit the access of children to any premises unless it receives representations to that effect or it believes it is right to do so for the prevention of their physical, moral or psychological harm. Applicants are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate.

The overriding principle is that each application and the circumstances prevailing at each premises will be considered on their own individual merits.

## **2.2 Preventing gambling from being a source of crime and disorder**

This licensing authority is aware that the Gambling Commission will be taking a leading role in preventing gambling premises from being a source of crime, for example the sale and distribution of controlled drugs, money laundering, prostitution, or unlawful gambling. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has high levels of organised crime, this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be necessary such as provisions of door supervisors. When making decisions in this regard, the licensing authority will give due weight to any comments made by the Police.

This licensing authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how

threatening the behaviour was to those who could see it, so as to make that distinction. The licensing authority will seek the views of its legal advisers before determining what action to take in circumstances in which disorder may be a factor.

As far as disorder is concerned, there are already powers in existing anti-social behaviour and other legislation to deal with measures designed to prevent nuisance, whether it arises as a result of noise from a building or from general disturbance once people have left a building. The licensing authority will not use the Act to deal with general nuisance issues, such as parking problems, which can easily be dealt with using alternative powers.

### **2.3 Ensuring gambling is conducted in a fair and open way**

This licensing authority has noted that the Gambling Commission has stated that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.

### **2.4 Protecting children and other vulnerable people from gambling**

This licensing authority has noted that the Gambling Commission's Guidance for Local Authorities states that this objective means preventing children from taking part in gambling, as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children. The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances/machines, segregation of areas etc.

This licensing authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

As regards the term "vulnerable persons", it is noted that the Gambling Commission does not seek to offer a definition, but states that "it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs." This licensing authority will consider this licensing objective on a case by case basis.

### **2.5 Licence Conditions**

Any conditions attached to licences will be proportionate and will be:

- relevant to the need to make the premises suitable as a gambling facility
- directly related to the premises and the type of licence applied for
- fairly and reasonably related to the scale and type of premises, and
- reasonable in all other respects.

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the



licence applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively.

This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

This licensing authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance
- only adults are admitted to the area where these machines are located
- access to the area where the machines are located is supervised
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder, and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

These considerations will apply to premises including buildings where multiple premises licences are applicable.

It is noted that there are conditions which the licensing authority cannot attach to premises licences which are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition
- conditions relating to gaming machine categories, numbers, or method of operation
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated), and
- conditions in relation to stakes, fees, winning or prizes.

The Gambling Commission advises in its Guidance to Licensing Authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence to this effect. Where it is decided that supervision of entrances or machines is appropriate for particular cases, a consideration of whether these supervisors need to be SIA licensed will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary.

Listed below are examples of possible areas where a licensing authority may wish to attach conditions to a licence if deemed appropriate:

- Leaflets giving assistance to problem gambling being displayed in prominent areas and discreet areas such as toilets

- The operator having regard to best practice guidance issued on the protection of the interests of vulnerable people
- Positioning of GamCare helpline information positioned on the machine
- A proof of age policy which would be agreed with a relevant responsible authority
- Posters promoting details of the GamCare telephone number and website
- The inclusion of designated chill out areas and areas of non-gambling in the premises.

The licensing authority will not generally impose conditions that limit the use of premises for gambling unless it is deemed to be necessary as a result of the requirement to act in accordance with the Gambling Commission's guidance, any codes of practice issued by the Commission, this Statement or in a way that is reasonably consistent with the licensing objectives.

## **2.6 (Licensed) Family Entertainment Centres**

This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas. Plans of the premises should be provided with an application for an FEC permit.

This licensing authority may consider measures to meet the licensing objectives such as:

- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare.
- Measures/training for staff on how to deal with suspected truant school children on the premises

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

This licensing authority will, as per the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operator licences covering the way in which the area containing the category C machines should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

In exercising their functions in respect of family entertainment centre permits, the licensing authority need not, but may have regard to, the licensing objectives and must have regard to any guidance issued by the Gambling Commission.

Except in exceptional circumstances, the licensing authority will not grant FEC permits in premises licensed for the sale of alcohol under the Licensing Act 2003.

## **2.7 Casinos**

There are currently no casinos operating within the Borough.

The Council has not passed a 'no casino' resolution under Section 166 of the Act, but is aware that it has the power to do so. Should the Council decide in the future to pass such a resolution, it will update this Statement with details of that resolution. Any such decision will be made by the Full Council following considered debate, and the reasons for making the resolution will be given. There is no right of appeal against this resolution.

## **2.8 Bingo Premises**

This licensing authority notes that the Gambling Commission's Guidance states:

"Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas".

This authority also notes the Guidance regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.

## **2.9 Betting Premises**

This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

On machines such as Fixed Odds Betting, the odds should be clearly displayed.

There is no evidence that the operation of betting offices has required door supervisors for the protection of the public. This licensing authority will make a door supervision requirement only if there is clear evidence from the history of trading that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.

While the licensing authority has discretion as to the number, nature and circumstances of use of betting machines, there is no evidence that such machines give rise to regulatory concerns. This authority will consider limiting the number of machines where there is clear evidence that such machines have been or are likely to be used in breach of the licensing objectives.

## 2.10 Adult Gaming Centres

This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.

This licensing authority may consider measures to meet the licensing objectives such as:

- Proof of age schemes
- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

## 2.11 Tracks

There are currently no tracks operating within the Borough.

This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the licensing objective "protection of children and vulnerable persons from being harmed or exploited by gambling" and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

This licensing authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

This licensing authority will expect applicants to offer their own measures to meet the licensing objectives, however appropriate measures/licence conditions may cover issues such as:

- Proof of age schemes
- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage

- Specific opening hours
- Self-barring schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare

This list is not mandatory, nor exhaustive, and is merely indicative of example measures that may be taken.

*Gaming machines* - Guidance from the Gambling Commission is available as regards where such machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing them. This licensing authority will consider the location of gaming machines at tracks, and applications for track premises licences will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded. Children and young persons are not prohibited from playing category D gaming machines on a track.

*Betting machines* - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

*Applications and plans* - The Act requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity. Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises. In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.

This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the "five times rule" (commonly known as betting rings) must be indicated on the plan.

## 2.12 Travelling Fairs

It will fall to this licensing authority to decide whether a travelling fair which offers category D machines and/or equal chance prize gaming without a permit meets the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair.

The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

The 27-day statutory maximum for the land being used as a fair is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses boundaries is monitored so that the statutory limits are not exceeded.

## 2.13 Provisional Statements

Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

The Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

- expects to be constructed
- expects to be altered, or
- expects to acquire a right to occupy.

The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

- they concern matters which could not have been addressed at the provisional statement stage, or
- they reflect a change in the applicant's circumstances.

In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by objectors at the provisional statement stage
- which in the authority's opinion reflect a change in the operator's circumstances, or
- where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

## 2.14 Licensing Reviews

Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below:

- in accordance with any relevant Code of Practice or Guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives, and
- in accordance with the licensing authority's statement of principles.

The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

The licensing authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.

The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:

- add, remove or amend a licence condition imposed by the licensing authority
- exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion
- suspend the premises licence for a period not exceeding three months, and
- revoke the premises licence.

In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

### **3 PERMITS, TEMPORARY AND OCCASIONAL USE NOTICES**

#### **3.1 Unlicensed Family Entertainment Centre Gaming Machine Permits**

Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.

The Act states that a licensing authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission. The Gambling Commission's Guidance for Local Authorities also states: "In their three year Licensing Policy Statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits...licensing authorities will want to give weight to child protection issues".

The Guidance also states: "An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the Chief Officer of Police has been consulted on the application". It should be noted that a licensing authority cannot attach conditions to this type of permit.

Statement of Principles - This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however they may include appropriate measures/training for staff as regards suspected truant school children on the premises, measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on/around the premises. This licensing authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

#### **3.2 (Alcohol) Licensed Premises Notifications and Gaming Machine Permits**

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have two gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority. The licensing authority can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with)
- the premises is mainly used for gaming, or
- an offence under the Gambling Act has been committed on the premises



If a premises wishes to have more than two machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Act, and “such matters as they think relevant.” This licensing authority considers that “such matters” will be decided on a case by case basis, but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff that will monitor that the machines are not being used by those under 18. Notices and signage may also be helpful. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for and dealt with as an adult gaming centre premises licence.

It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached. It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machines.

### **3.3 Prize Gaming Permits**

The Gambling Act 2005 states that a licensing authority may “prepare a Statement of Principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.

This licensing authority has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate that:

- they understand the limits to stakes and prizes that are set out in regulations
- that the gaming offered is within the law, and
- there are policies and steps to be taken to protect children from harm.

In making its decision on an application for this permit, the licensing authority does not need to have regard to the licensing objectives, but must have regard to any Gambling Commission guidance.

It should be noted that there are conditions in the Act with which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:

- limits on participation fees, as set out in regulations, must be complied with
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day, the game must be played and completed on the day the chances are allocated and the result of the game must be made public in the premises on the day that it is played

- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize), and
- participation in the gaming must not entitle the player to take part in any other gambling.

### 3.4 Club Gaming and Club Machines Permits

Members clubs and miners' welfare institutes (but not commercial clubs) may apply for a club gaming permit. The club gaming permit will enable the premises to provide gaming machines, equal chance gaming and games of chance as set out in the regulations.

Members clubs, miner's welfare institutes and commercial clubs may apply for a club machine permit. A club machine permit will enable the premises to provide gaming machines as set out in the regulations.

Gambling Commission Guidance states: "Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicates the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."

Before granting the permit, the authority will need to satisfy itself that the premises meets the requirements of a members' club and may grant the permit if the majority of members are over 18.

Licensing authorities may only refuse an application on the grounds that:

- the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied
- the applicant's premises are used wholly or mainly by children and/or young persons
- an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities
- a permit held by the applicant has been cancelled in the previous ten years, or
- an objection has been lodged by the Commission or the Police.

There is also a 'fast-track' procedure available under the Act for premises which hold a club premises certificate under the Licensing Act 2003. As the Gambling Commission's Guidance to Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced."

The grounds on which an application under the process may be refused are:

- that the club is established primarily for gaming, other than gaming prescribed under schedule 12
- that in addition to the prescribed gaming, the applicant provides facilities for other gaming, or

- that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of the code of practice about the location and operation of gaming machines.

### **3.5 Temporary Use Notices**

Temporary use notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary use notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.

The licensing authority can only grant a temporary use notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

The Secretary of State has the power to determine what form of gambling can be authorised by temporary use notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that temporary use notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

There are a number of statutory limits as regards temporary use notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

### **3.6 Occasional Use Notices**

The licensing authority has very little discretion as regards occasional use notices aside from ensuring that the statutory limit of eight days in a calendar year is not exceeded. This licensing authority will need to consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

## **4 DECISION-MAKING**

### **4.1 The Licensing Process**

The Council's licensing functions under the Act will be carried out by the Licensing and Safety Committee, supported by a number of sub-committees and by officers acting under the delegated authority of the committee.

Where there are no areas of contention, it is considered that many of the functions will be largely administrative. In the interests of efficiency and effectiveness these will, for the most part, be carried out by officers.

Where there are relevant representations in respect of an application the matter will be determined by the Licensing and Safety Committee or one of its sub-committees, as will any application for the review of a licence.

The table shown at Appendix C sets out the agreed delegation of decisions and functions to Licensing and Safety Committee, Sub-Committee and officers. This form of delegation is without prejudice to officers referring an application to a Sub-Committee or full Committee if considered appropriate in the circumstances of any particular case.

### **4.2 Committee Terms of Reference**

A Licensing and Safety Sub-Committee of three Councillors will sit to hear applications where representations have been received from interested parties and responsible authorities. Ward Councillors will not sit on a Sub-Committee involving an application within their ward.

Where a Councillor who is a member of the Licensing and Safety Committee is making or has made representations regarding a licence on behalf of an interested party, in the interests of good governance they will disqualify themselves from any involvement in the decision-making process affecting the licence in question.

The Licensing and Safety Sub-Committee will refer to the Licensing and Safety Committee any matter it is unable to deal with because of the number of its members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.

The Licensing and Safety Committee will refer to the full Council any matter it is unable to deal with because of the number of its members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.

Every determination of a licensing decision by the Licensing and Safety Committee or a Licensing and Safety Sub-Committee shall be accompanied by clear, cogent reasons for the decision. The decision and the reasons for that decision will be sent to the applicant and those who have made relevant representations as soon as practicable. A summary of the decision shall also be posted on the Council's website [www.bracknell-forest.gov.uk](http://www.bracknell-forest.gov.uk) as soon as possible after the decision has been confirmed, where it will form part of the statutory licensing register required to be kept by the Council.

Where a licensing authority rejects an application, the applicant may appeal to the local Magistrates' Court.

The Council's licensing officers will deal with all other licensing applications where either no representations have been received, or where representations have been received and it is agreed by the parties that a hearing is not necessary.

Decisions as to whether representations are irrelevant, frivolous or vexatious will be made by Council officers, who will make the decisions on whether representations or applications for licence reviews should be referred to the Licensing and Safety Committee or Sub-Committee. Where representations are rejected, the person making that representation will be given a written reason as to why that is the case. There is no right of appeal against a determination that representations are not admissible.

## **5 FURTHER INFORMATION**

Further information about the Gambling Act 2005, this Statement of Principles or the application process can be obtained from:

Licensing Team  
Bracknell Forest Borough Council  
Time Square  
Market Street  
Bracknell  
RG12 1JD

Tel: 01344 352000

E-mail: [licence.all@bracknell-forest.gov.uk](mailto:licence.all@bracknell-forest.gov.uk)

Website: [www.bracknell-forest.gov.uk/licensing](http://www.bracknell-forest.gov.uk/licensing)

Information is also available from:

Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP

Tel: 0121 230 6500

Website: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

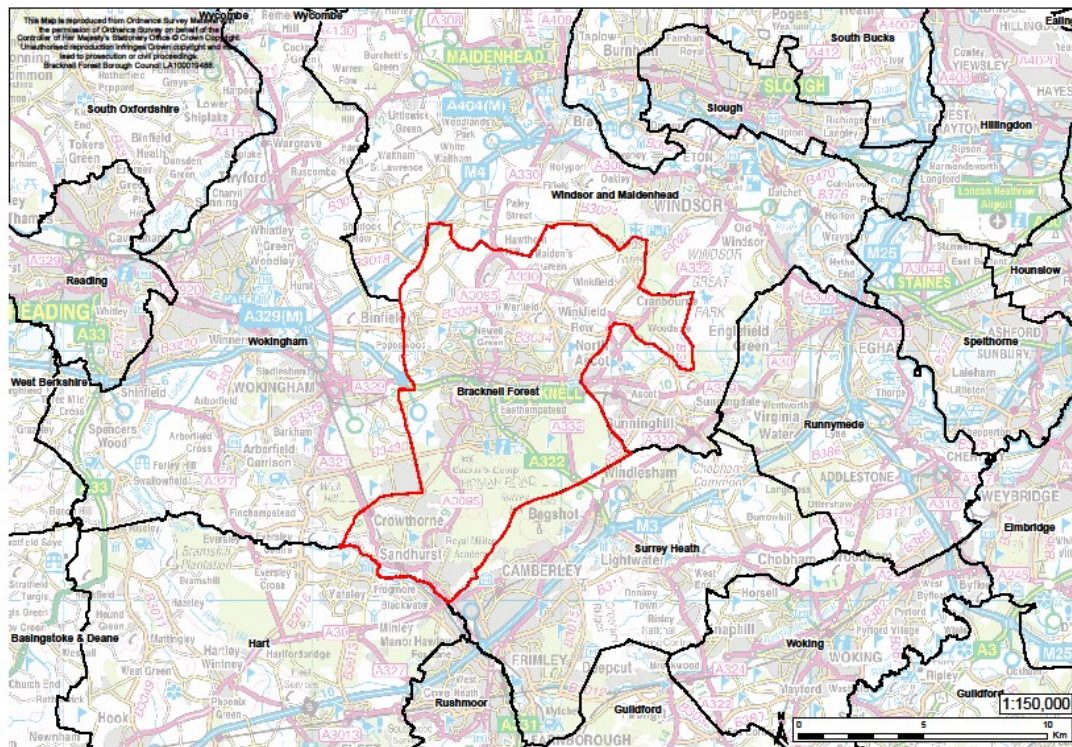
## Appendix A

### List of Consultees

- Association of British Bookmakers
- Association of Licensed Multiple Retailers
- BEDA
- Bracknell Chamber of Commerce
- Bracknell Forest Federation of Community Groups
- Bracknell Forest Voluntary Action
- Bracknell Regeneration Partnership
- British Amusement Catering Trade Association
- British Institute of Inn Keeping
- British Beer and Pub Association
- Committee of Registered Clubs Association
- Community Safety Partnership
- Federation of Licensed Victuallers Associations
- Gamblers Anonymous
- GamCare
- Holders of existing gambling licences
- Local community associations
- Members of Bracknell Forest Council
- National Association of Bookmakers
- National Federation of Community Associations
- Parish and Town Councils
- Premises licence / club premises certificate holders
- Pub & Drug Watch
- Public website
- Thames Valley Police
- The Bingo Association

APPENDIX B

Map of Bracknell Forest Borough



**APPENDIX C**

**Summary of Licensing Authority Delegations  
Permitted under the Gambling Act 2005**

<b>Matter to be dealt with</b>	<b>Full Council</b>	<b>Sub-Committee of Licensing Committee</b>	<b>Officers</b>
Approval of three year Statement of Principles	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)			X
Application for Premises licences		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Review of a Premises licence		X	
Application for club gaming/club machine permits		Where objections have been made (and not withdrawn)	Where no objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits			X
Applications for other permits			X
Cancellation of licensed Premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

X indicates the lowest level to which decisions can be delegated



**APPENDIX D****Gambling Act Glossary**

<b>Adult Gaming Centres</b>	Adult Gaming Centres must have a premises licence from the licensing authority to make category B, C and D gaming machines available to their customers.
<b>Betting Premises</b>	The Act contains a single class of licence for betting premises, which includes track and non-track.
<b>Bingo</b>	Two types of bingo can be offered: Cash bingo - where the stakes paid made up the cash prizes that are won; or Prize bingo - where various forms of prizes are won and are not directly related to the stakes paid.
<b>Casinos</b>	The Act defines casino games as games of chance which are not equal chance gaming.
<b>Customer Lottery</b>	A lottery run by occupiers of a business for the benefit of the customers who buy tickets sold on the premises (e.g. supermarket holding a hamper raffle).
<b>Exempt Lottery</b>	Incidental non-commercial lotteries Private lotteries Customer lotteries Small Society lotteries
<b>Gambling Act 2005</b>	The Act governs the provision of all gambling in Great Britain, other than the National Lottery and spread betting. It received royal assent on 7 April 2005.
<b>Gambling Commission</b>	The Gambling Commission licenses larger gambling operators and provides advice and guidance to operators, stakeholders and licensing authorities. They also have a role in enforcement and ensuring promotion of the licensing objectives.
<b>Gaming Machines</b>	Category of machine and where they can be situated are contained at the end of this glossary.
<b>Incidental Non-Commercial Lottery</b>	Lottery that is run as an additional amusement at non-commercial events with tickets sold only during the event, such as a raffle at a dance or church fair.
<b>Licensed Family Entertainment Centres</b>	The Act creates two classes of family entertainment centres (FEC). Licensed FECs provide category C and D machines and require a premises licence.

<b>Lotteries</b>	A lottery is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance.
<b>Non-track betting</b>	Betting that takes place other than at a race track.
<b>Occasional Use Notices</b>	Section 39 of the Act provides that where there is betting on a track on eight days or less in a calendar year, betting may be permitted by an occasional use notice without the need for a full premises licence.
<b>Private Lottery</b>	Lottery that requires membership of a society, place of work or single residential unit (e.g. raffle at a student hall of residence).
<b>Small Society Lottery</b>	Non-commercial societies if it is established and conducted for charitable purposes; for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity; or for any other non-commercial purpose other than private gain.
<b>Temporary Use Notices</b>	These allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises which might be suitable for temporary use notices would include hotels, conference centres and sporting venues.
<b>Track betting</b>	Tracks are sites (including horse racecourses and dog tracks) where races or other sporting events take place. Betting is a major gambling activity on tracks both in the form of pool betting (often known as the "totalisator" or "tote") and also general betting, often known as "fixed-odds" betting.
<b>Travelling Fairs</b>	A travelling fair is one that "wholly or principally" provides amusements and they must be on a site that had been used for fairs for no more than 27 days per calendar year. No permit is required for gaming machines, but they must comply with age restrictions.
<b>Unlicensed Family Entertainment Centres</b>	Unlicensed FECs provide category D machines only and are regulated through FEC gaming machine permits.

**GAMING MACHINE REQUIREMENTS (Not applicable to Legacy Machines)**

Categories of Machine	A	B1	B2	B3A	B3	B4	C	D	D - Non Complex			
									Pusher	Crane Grab	Other	
Maximum Stake	Unlimited	£2	£100	£1	£2	£1	£1	10p if prize contains any cash 30p if prize is wholly non cash	10p	£1 (for a non cash prize) (see note below)	As Cat D	
Maximum Prize	Unlimited	£4000	£500	£500	£500	£250	£70	£5 cash or £8 non cash (or a mix of up to £8 total with up to £5 in cash)	£8 cash or £15 non cash (or a mix of up to £15 total with up to £8 in cash)	£50 (non cash prize) (see note below)	As Cat D	
Payment method	Can be by coin, banknote, token, smartcard or credited via site staff but not payment by debit or credit card.							Money or money's worth up to a Max of £2 by a single action				
Payout method	Payout must be by coin, banknote, token, smartcard or hand pay via site staff. Non monetary prizes are not allowed.							As other categories also including non monetary prizes				
Percentage Payout	No minimum value set but the average percentage payout must be transparently displayed.								Not required			
Statement of Prizes Available	All possible winning outcomes must be displayed with win amounts given or odds to allow wins to be calculated.								Should be transparent.			
Authority for use	Operating Licence from the Commission for casino, bingo, betting, AGC and Commission Licensed FEC (cat C and D machine) premises. Permit from L/A for non Commission Licensed FEC (cat D machines only), clubs and alcohol licensed premises.											
Manufacture, Supply, Install, Adapt, Maintain or Repair	Carrying out any of these activities will require an Operating Licence from the Commission. However, a permit can be obtained to cover supply, install, maintain and repair of a single gaming machine or part of a gaming machine.											
Profit Sharing	No prohibition under the Gambling Act 2005											
Use by Children	Not Permitted							Permitted				
Offences	See Sections 242 to 246 of the Gambling Act 2005 for details											
Type of Control	Random only			N/A – This is a lottery		Random or Compensated						

**Note:**

A 'crane grab machine' is a reference to a non-money prize machine. That is, every prize must be a non-money prize and must consist of an individual physical object (such as a stuffed toy). If a crane offers any cash as part of its prize then it falls outside this definition and can not offer the £1 stake, £50 prize levels, in this case its maximum stake would be limited to 10p and its maximum prize must meet the 'Other' prize level as stated above.

**LEGACY MACHINES (This table does not include Non Complex Category D Machines)**

Categories of Machine	B3	B4	C	D
Maximum Stake	£1	£1	50p	10p if prize is wholly or partly cash 30p if prize is wholly non cash (See note below)
Maximum Prize	£500	£250	£35	£5 cash or £8 non cash (or a mix up to £8 total with up to £5 in cash)
Payment method	Coins, tokens, banknotes, smartcards or credited via site staff		Coins and banknotes	Coins and tokens
Payout method	Coins, tokens, banknotes, smartcards, cheques, credit notes or hand pay via site staff		Coins and banknotes	Coins and tokens
Percentage Payout	Average payout must be 70% or greater and this must be clearly visible			
Statement of Prizes Available	Must show the monetary value of each prize, how it may or may not be won and any special circumstances under which a prize may not be paid or may be modified.		Normally all prizes are displayed but no requirement to do so. Mystery prizes are allowed.	
Authority for use	Operating Licence from the Commission for casino, bingo, betting, AGC and Commission Licensed FEC (cat C and D machine) premises. Permit from L/A for non Commission Licensed FEC (cat D machines only), clubs and alcohol licensed premises.			
Manufacture, Supply, Install, Adapt, Maintain or Repair	Carrying out any of these activities will require an Operating Licence from the Commission. However, a permit can be obtained to cover supply, install, maintain and repair of a single gaming machine or part of a gaming machine.			
Profit Sharing	No prohibition under the Gambling Act 2005			
Use by Children	Not Permitted			Permitted
Offences	See Sections 242 to 246 of the Gambling Act 2005 for details			
Type of Control	Random or Compensated			

**Note:**

The stake level of Cat D legacy machines has reduced from pre Gambling Act 2005 levels; under the old Act 30p could be staked for a cash prize of up to £5. The new Act requires that if a gaming machine is offering a cash prize and it takes a stake greater than 10p then it can not be classed as a Cat D machine and must fit into one of the other categories.

**PREMISES DETAILS**

Premises Type	A	B1	B2	B3	B4	C	D	D - Non Complex	B3A	
Regional casino (machine/table ratio of 25:1 up to maximum)	Maximum of 1250 machines Any combination of machines in categories A to D within the total limit subject to table ratio (Not B3A machines)									
Large casino (machine/table ratio of 5:1 up to maximum)		Maximum of 150 machines Any combination of machines in categories B to D within the total limit subject to table ratio (Not B3A machines)								
Small casino (machine/table ratio of 2:1 up to maximum)		Maximum of 80 machines Any combination of machines in categories B to D within the total limit subject to table ratio (Not B3A machines)								
Pre-2005 Act (1968 Act) casino (no machine/table ratio)		Maximum of 20 machines in categories B to D (Not B3A machines) <b>OR</b> any number of category C or D machines with no category B machines at all								
Betting premises and tracks occupied by pool betting		Maximum of 4 machines in categories B2 to D (Not B3A machines)								
Bingo premises				Can site B3 / B4 machines up to the greater of 8 machines or 20% of the <u>total</u> number of machines available for use on the premises. (Not B3A machines). See note below		No limit on category C or D machines				
Adult gaming centre				Can site B3 / B4 machines up to the greater of 4 machines or 20% of the <u>total</u> number of machines available for use on the premises. (Not B3A machines). See note below		No limit on category C or D machines				
Family entertainment centre (with Commission operating licence)							No limit on category C or D machines			
Family entertainment centre (with LA permit)							No limit on category D machines			
Members' club or Miners' welfare institute				Maximum of 3 machines in categories B3A, B4, C or D (May include a maximum of one B3A machine by agreement)						
Commercial club				Maximum of 3 machines in categories B4, C or D (Not B3A machines)						
Qualifying alcohol licensed premises (without additional gaming machine permit)							1 or 2 machines of category C or D (Automatic grant upon notification)			
Qualifying alcohol licensed premises (with additional L/A gaming machine permit)							Number of category C or D machines as specified on the permit			
Travelling fair							No limit on category D machines			
	<b>A</b>	<b>B1</b>	<b>B2</b>	<b>B3</b>	<b>B4</b>	<b>C</b>	<b>D</b>	<b>D - Non Complex</b>	<b>B3A</b>	

**Note:** The minimum number of B3/B4 machines (4 or 8 for AGC and Bingo respectively) only applies to premises licences granted before 1<sup>st</sup> April 2014. Premises licences granted on or after 1<sup>st</sup> April 2014 do not qualify for the minimum number and must not site more B3/B4 machines than 20% of the total number of machines available for use on the premises.

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**List of Consultees**

- Association of British Bookmakers
- Association of Licensed Multiple Retailers
- Bingo Association
- British Amusement Catering Trade Association
- British Institute of Inn Keeping
- British Beer and Pub Association
- **Committee of Registered Club Associations**
- **Federation of Licensed Victuallers Associations**
- Gamblers Anonymous
- GAMCARE
- Guild of Master Victuallers
- Holders of existing gambling licences / permits
- Involve
- Local businesses and their representatives, e.g. Bracknell Regeneration Partnership, Bracknell Forest Chamber of Commerce
- Local residents and community associations
- Members of Bracknell Forest Council
- National Association of Bookmakers
- National Federation of Community Organisations
- Parish and Town Councils
- Premises licence / club premises certificate holders
- Pub & Drug Watch
- Thames Valley Police / Community Safety Partnership

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**TO: LICENSING AND SAFETY COMMITTEE  
11 JUNE 2015**

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**REVIEW OF GUIDANCE NOTES AND CONDITIONS FOR HACKNEY CARRIAGE  
AND PRIVATE HIRE VEHICLE OWNERS, OPERATORS AND DRIVERS  
Chief Officer: Environment and Public Protection**

**1 PURPOSE OF REPORT**

- 1.1 The purpose of this report is to bring to the attention of the Committee the results of the recent consultation on the proposed amendments to the Council's Guidance Notes and Conditions document (Annex A), and to seek approval to make these revisions to the document.

**2 RECOMMENDATIONS**

**2.1 That the Committee:**

- i) notes the results of the consultation as set out at Annex B; and**
- ii) approves the amendments and additions to the Guidance Notes and Conditions document as set out at Annex C with immediate effect.**

**3 REASONS FOR RECOMMENDATIONS**

- 3.1 The Council issues the Guidance Notes and Conditions document to owners, drivers and operators of hackney carriages and private hire vehicles. These notes are intended to set out the legal requirements, licence conditions and give guidance to the trade. The guidance notes are updated on a regular basis to reflect changes in law and Council policy.

**4 ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 Members may choose to vary the additions or amendments proposed, or may propose additional changes to the document.

**5 SUPPORTING INFORMATION**

- 5.1 Attached at Annex B are the proposed additions and amendments to the Guidance Notes for 2015. In addition to updating dates, the material changes to the document are as follows:

- A new condition requiring operators to notify the Council of any convictions, cautions or fixed penalties
- A new condition relating to suitability of base controllers
- A new condition relating to trading names of operators
- A new condition requiring temporary replacement vehicles and those on fleet policies or temporary cover notes to carry a copy of the insurance in the vehicle
- Amendment of three existing conditions for clarity.

## **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 All licence holders and members of the public were able comment on the consultation.

### Method of Consultation

7.2 The consultation took place from 13 October to 28 November via the Council's public consultation portal. Details of the consultation were sent to all licence holders who had previously provided an email address to the Licensing team.

### Representations Received

7.3 Three responses were received to the consultation, outlined in Annex A.

### Background Papers

Guidance Notes and Conditions for Hackney Carriage and Private Hire Vehicle Owners, Operators and Drivers (April 2014)

### Contact for further information

Laura Driscoll  
Licensing Team Leader  
01344 352517  
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**Guidance Notes and Conditions for Hackney  
Carriage and Private Hire Vehicle Owners,  
Operators and Drivers**

**April 2014**

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# **Guidance Notes and Conditions for Hackney Carriage and Private Hire Vehicle Owners, Operators, Drivers April 2014**

## **1. General**

1.1 The legislation relating to Hackney Carriage and Private Hire licensing is contained in the Town Police Clauses Act 1847 and Part II of the Local Government (Miscellaneous Provisions) Act 1976, as amended by the Transport Act 1985. This legislation applies throughout the whole of Bracknell Forest Borough.

1.2 In these Guidelines, the following abbreviations have been used:

TPCA	-	The Town Police Clauses Act 1847
LG(MP)A	-	The Local Government (Miscellaneous Provisions) Act 1976 (Part II)
TA	-	The Transport Act 1985
RTA	-	The Road Traffic Act 1991
DDA	-	Disability Discrimination Act 1995
BF(LC)	-	Bracknell Forest Licence Conditions
BF(G)	-	Bracknell Forest Guidance

1.3 These notes are issued to define and offer guidance on the legislation in relation to the provision of Hackney Carriages and Private Hire vehicles within the Borough of Bracknell Forest. Any requirements stated as BF(LC) must be regarded as conditions of the relevant licence.

### **Public Records**

1.4 Information held by the Council is Data Protected, however there is a requirement for a 'Public Register' to be kept available for the free public inspection of licences granted. This should only give information in respect of:

## Hackney Carriage Vehicles:

Proprietor's name

Registration and licence number

Date and period for which licence granted

Offences committed by proprietor

Offences committed by driver

## Private Hire Drivers:

Name

Date and period for which licence is granted

Licence number

## **Enforcement Policy**

1.5 The purpose of this Policy is to help your business comply with legislation in a manner that is equitable and without placing an unreasonable burden on anyone. The 4 guiding principles enshrined in this Policy are as follows:

- Fairness: to ensure a fair and even-handed approach.
- Proportionality: to ensure that action taken relates directly to the actual or potential risk to health, safety, the environment, or economic disadvantage to the consumer or business.
- Transparency: to ensure that the reasons for taking any form of enforcement action are understood by those having to comply, and that clear distinctions are made between legal requirements and advice or guidance.
- Objectivity: to ensure that decisions are not influenced by the gender, ethnic origin, religious or political beliefs or sexual preferences of the offender, victim or witnesses. Sensitive consideration will be given where persons involved are children, elderly, infirm or suffering from a mental disorder.

1.6 A copy of the Enforcement Policy is available on request from the Reception at Time Square or at [www.bracknell-forest.gov.uk](http://www.bracknell-forest.gov.uk).

## **2. Types of Licence**

Hackney Carriage Vehicle

Private Hire Vehicle

Home-to-School Vehicle

Dual Driver - licensed to drive both Hackney Carriages and Private Hire Vehicles

Private Hire Driver

Home-to-School Driver

Chauffeur Driver

Private Hire Operator

2.1 Please note that although reminders are sent, it is the responsibility of the licence holder to ensure that a renewal application is submitted at least one month prior to the expiry of the licence.

2.2 Please note that if a driver's licence has lapsed for a period exceeding 6 months then a full new application will be required.

## **3. Fees**

3.1 Alterations to vehicle and operator fees are required to be advertised by notice in a local newspaper.

*LG(MP)A s70 (3)*

3.2 The notice will be displayed in the Council's office for at least 28 days (generally during October to February) to allow for any objections to be made. These fees will apply to all licences due on or after 1 April. No increase in fees can take place until the notice period has expired. As the Council bases its fees on the provision of the service, no refunds shall be made except in exceptional circumstances.

*BF(G)*



3.3 The Council reviews all fees periodically and the current scale of fees is available on request or at [www.bracknell-forest.gov.uk/licensing](http://www.bracknell-forest.gov.uk/licensing). Fees can be paid by cash, cheque, or credit/debit card at Reception or by ringing 01344 352000 for credit/debit card payment only. Online payments can be made at <http://www.bracknell-forest.gov.uk/onlinepayments>.

*BF(G)*

#### **4. How to Apply**

4.1 Details are available from the Customer Service Centre at Time Square. Information and forms are also available at [www.bracknell-forest.gov.uk/licensing](http://www.bracknell-forest.gov.uk/licensing).

*BF(G)*

4.2 Faxed copies and photocopies of documentation such as DVLA licences will not be accepted.

*BF(G)*

#### **5. Driver Licence - Requirements**

5.1 All new applicants will be required to complete an application for an enhanced disclosure from the Disclosure and Barring Service (previously known as the CRB).

*LG(MP)A s59*

5.2 Only DBS enhanced disclosures with Bracknell Forest Council as the registered body will be accepted.

*DBS Code of Practice*

5.3 Any DBS enhanced disclosure presented at time of application which is more than 12 months from date of issue will not be accepted. If a disclosure was issued more than 3 months but less than 12 months prior to the date of application, the applicant will be required to sign a declaration regarding convictions or pending cases since the issue of the disclosure.

*BF(LC)*

5.4 Existing drivers will be required to submit a new DBS disclosure application every 3 years or as required by the Licensing Section. There is a fee to be paid for checks made by the Disclosure and Barring Service.

*BF(LC)*

5.5 All licensed drivers are required to report details of **any** convictions, cautions or fixed penalty fines imposed within 28 days of the conviction, caution or fixed penalty. Details should be entered on the relevant form 'Notification of Convictions etc', which is available from Reception.

*BF(LC)*

5.6 All applicants who do not hold a UK passport and have not been resident in the UK for the previous 5 years are required to obtain a certificate of good conduct or equivalent from their relevant Embassy or High Commission.

*BF(LC)*

5.7 Applicants must have held a full DVLA/EU/EEA driving licence for at least 1 year prior to application. Driving licences and photo-cards (if applicable) must be produced on initial application and renewal of driver licence. Photocopies will not be accepted. Drivers with non-DVLA licences will be required to obtain a paper counterpart driving licence from the DVLA in order to take the DSA practical test.

*BF(LC)*

5.8 All new drivers will be required to complete a mandate so the Council can verify their driving licence details. For existing drivers, this check will be required to be completed at the same time as the DBS disclosure and then every 3 years after that.

*BF(LC)*

5.9 Section 57(2a) requires applicants to produce a certificate signed by a registered medical practitioner to the effect that they are physically fit to be the driver of a Hackney Carriage or Private Hire Vehicle.

*LG(MP)A s57(2a)*

5.10 A medical certificate on the prescribed BFBC form must be supplied with the first application. On attaining the ages of 50 years, 55 years, 60 years and 65 years of age, and thereafter at yearly intervals a further certificate must be supplied and at any other time that the Council's Medical Adviser shall direct. The DVLA Group 2 Medical Standards apply. In the case of insulin-treated diabetics, the DVLA Group 2 Standards for drivers of category C1 vehicles apply. Further details are available on request from the Licensing Section.

*BF(LC)*

5.11 A medical will only be valid as part of the application process for a period of 12 months from its date of issue. Should an application not be completed within that period of time, a new medical declaration must be obtained.

*BF(LC)*

5.12 All licensed drivers are required to notify the Licensing Section in writing within 7 days of any medical condition which may impact on their fitness to drive a vehicle. The Council may require the driver to undergo a medical to ensure that they are medically fit to drive.

*BF(LC)*

5.13 All new applicants for driver licences must take and pass the Driving Standards Agency practical test specifically designed for Hackney Carriage and Private Hire Drivers. Applicants for home to school, chauffeur and private hire driver licences must take and pass the 'Private Hire Saloon' test; and applicants for dual driver licences

must take and pass **both** the 'Hackney Saloon' and 'Wheelchair Exercise' tests.

*BF(LC)*

5.14 All new licensed drivers are required to attend a First Aid Course run by the Council, unless they can provide proof that they have passed a recognised First Aid course within the last five years.

*BF(LC)*

5.15 All licensed drivers are required to attend a First Aid course five years after the date of their initial course, or when their current certificate expires.

*BF(LC)*

5.16 Where a driver fails to attend a First Aid course without reasonable excuse, their licence will be suspended until the course is attended. Failure to attend a booked course will mean a further fee is required to be paid to make a new booking.

*BF(LC)*

5.17 All licensed drivers are required to wear their driver's badge in a prominent position and manner so that it is plainly and distinctly visible.

*LG(MP)A s54*

5.18 A driver may display the badge within the vehicle in a prominent position and manner so that it is plainly and distinctly visible.

*BF(G)*

5.19 Any change of details (name or address) must be notified to the Licensing Section within 7 days using the appropriate form, which is available from Reception.

*TPCA s44*

5.20 Licensed drivers may not initiate any dialogue of a sexual nature with a passenger. Licensed drivers are not permitted to have sexual contact, even with consent, with a passenger whilst on duty or in a licensed vehicle.

*BF(LC)*

## **6. Knowledge Test**

6.1 All new drivers will be required to take and pass a written knowledge test. Chauffeur driver and Home to School driver applicants will be exempt from the geographical section of the knowledge test only.

*LG(MP)A s51*

6.2 All drivers will be tested on the laws relating to the licence that they have applied for, the conditions laid down in the Guidance Book, and their geographical knowledge of locations in the area. In addition, Hackney Carriage drivers will be given an oral test of specific routes to destinations in the Borough. If the applicant fails the test, they may re-take it but will be charged for any subsequent test. A pass mark of 80% applies to all sections.

*BF(LC)*

6.3 Any driver who may require assistance in reading or understanding the test should notify the invigilator at the beginning of the test.

*BF(G)*

## **7. Driving Disqualifications**

7.1 Where any applicant for a **new** licence has been disqualified from driving (whether for a single offence or under “totting up”), a licence will not be granted until the applicant has (since the period of disqualification has ended) held a full driving licence for a continuous period of 2 years (3 years for a conviction involving alcohol or drugs

and 5 years for more than one conviction or after completion of treatment for alcoholism or drugs).

*BF(LC)*

7.2 Where any licensed driver is disqualified from driving under “totting up”, providing the period of disqualification does not exceed 12 months, upon the restoration of the applicant’s driving licence, the Council will re-issue a dual or private hire driver's licence. In the event of the applicant being convicted of any further endorsable offence or issued with any confirmed warning within a period of 12 months, the Council may take action to revoke or suspend the licence.

*BF(LC)*

7.3 Where a conviction is in relation to driving whilst over the legal limit of alcohol or has resulted in a disqualification of 12 months or more, the Council will refuse to issue a licence for a period of up to 3 years from date of restoration of DVLA driving licence.

*BF(LC)*

7.4 Where any licensed driver is disqualified from driving for any such reason, he/she shall immediately return his driver’s licence and badge to the Council.

*LG(MP)A s61(2)*

## **8. Unauthorised Drivers**

8.1 It is an offence to allow an unlicensed driver to drive a Hackney Carriage or a Private Hire vehicle. A licensed vehicle is licensed for 365 days a year and can only be driven by licensed drivers at all times.

*LG(MP)A s46*

## **9. Vehicle Licence - Requirements**

9.1 All vehicles must be passed as fit by a Vehicle Inspector at an approved garage.

*LG(MP)A s68*

9.2 Vehicles submitted for inspection **must** be in a clean condition throughout including the underside and engine compartments. The Vehicle Inspector has the right to refuse inspection if they are of the opinion the vehicle is not in a clean condition. In such circumstances the vehicle will require a new inspection appointment which will necessitate a new inspection fee. See section 14 for more details on vehicle inspections.

*BF(LC)*

9.3 The vehicle should be maintained in a clean and comfortable condition at all times.

*BF(LC)*

9.4 Licensed vehicles are smokefree at all times.

*Smoke-free Regulations 2007*

9.5 A vehicle may only be licensed by one local authority at any given time.

*BF(G)*

## **10. Age of Vehicle**

10.1 A vehicle submitted for initial licensing must be less than 5 years old or, if wheelchair accessible, less than 4 years old from date of first registration. The maximum age of a vehicle that may continue to be licensed is 8 years from date of first registration for saloon and estate vehicles, and 10 years for a purpose-built Hackney Carriage.

*LG(MP)A s47 and 48*

*BF(LC)*

10.2 A prestige vehicle (as defined in Appendix G) may be submitted for initial licensing if it is less than 9 years old provided that it meets the “exceptional condition” criteria detailed in Appendix G and has travelled less than 150,000 miles.

*LG(MP)A s48  
BF(LC)*

10.3 In cases where a vehicle has done an abnormally low mileage and is in exceptional condition, it may, on application, be granted an extension on the age limit. Such an extension may be subject to certain conditions. For more details please see Appendix G.

*BF(LC)*

10.4 Any such application must be received in writing by the Licensing Section at least 3 months prior to the date upon which the vehicle becomes 8 years old.

*BF(G)*

10.5 The vehicle shall be subjected to a visual inspection by the Licensing Section. It is the responsibility of the owner to submit the vehicle on the date at the place as arranged.

*BF(LC)*

10.6 The vehicle owner will receive a decision in writing within 10 working days after the inspection.

*BF(G)*

## **11. Type of Vehicle**

11.1 All replacement Hackney Carriages must be wheelchair accessible. Vehicles with twin telescopic wheelchair ramps must also have a winch fitted to assist entry/exit.

*LG(MP)A s47  
BF(LC)*



11.2 All Wheelchair Accessible Vehicles must have a national or single type approval certificate incorporating the modification.

*BF(LC)*

11.3 Private Hire Vehicles shall have a minimum of four doors and be capable of carrying at least 4 passengers.

*LG(MP)A s48*

*BF(LC)*

11.4 A Private Hire vehicle must not be of such design or appearance as to lead any person to believe it is a Hackney Carriage.

*LG(MP)A s48*

11.5 From 1 April 2014, new vehicle licences shall only be issued for vehicles which fall within the following Euro NCAP categories:

- (i) Large family
- (ii) Executive
- (iii) Small MPV (for 4 passengers only)
- (iv) Large MPV
- (v) Large Off-Road 4x4

*BF(LC)*

Any vehicles which do not fall within the appropriate Euro NCAP may be considered for licensing on a case by case basis. In particular it is envisaged that exceptions could be made for 'green' vehicles such as the Toyota Prius. However these vehicles will only be licensed for an appropriate number of passengers depending on the number of seats and internal dimensions of the vehicle, with a minimum seat width and depth of 16" (41cm) per passenger. It is recommended that prior to purchasing any such vehicle, advice be sought from the Licensing Team.

11.6 Where the vehicle is an estate car, a guard must be fitted to prevent luggage entering the passenger compartment in an emergency stop. Roof racks may only be used when excess luggage is to be carried. Please see section 15 regarding the use of trailers.

*BF(LC)*

11.7 A vehicle can only be licensed to carry up to a maximum of 8 passengers. Any licence issued relates to a number of persons to be carried regardless of weight, age or size, and to exceed that number is an offence.

*LG(MP)A s30*

11.8 Some purpose-built vehicles can carry up to 8 passengers including those seated in wheelchairs. In this case, each seat and person seated in a wheelchair count in respect of seating capacity.

*LG(MP)A s80*

11.9 A stretched limousine vehicle modified and issued with a certificate under either the

- (i) Lincoln Qualified Vehicle Modifier Scheme or
- (ii) Cadillac Master Coachbuilder Scheme

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

*BF(G)*

11.10 All licensed vehicles (except for private hire vehicles with a dispensation) must meet the following requirements:

- (i) Light transmitted through the **windscreen** must be at least 75%
- (ii) **All other windows (both front and rear)** must allow at least 70% of light to be transmitted

Setting an approved level of tint on the rear passenger windows of licensed vehicles ensures that applicants have no doubt as to what vehicles can be purchased as well as maintaining high safety standards. Many vehicles are used for the carriage of children and vulnerable persons and excessively tinted windows may lead to activities taking place in the vehicle not being visible to persons outside, which poses a risk to both passengers and drivers, and vulnerable passengers such as lone females will feel safer in a vehicle where they can be seen. Officers need to be able to ensure the maximum number of passengers is not being exceeded. In addition, excessively tinted glass may restrict the vision of the driver, especially in dark conditions, which may prevent the driver from seeing other road users or pedestrians.

*BF(LC)*

11.11 Where currently licensed vehicles as from 11 October 2013 have factory tinted/privacy glass fitted and are able to provide documentary evidence of this, they will remain licensed until the vehicle reaches the maximum licensable age in accordance with the existing age of vehicle policy.

*BF(LC)*

11.12 Where currently licensed vehicles as from 11 October 2013 have had a tinted film fitted to the vehicle (i.e. not factory fitted at time of manufacture), they will be required to have the film removed prior to the next vehicle inspection. Failure to do so will result in the vehicle failing the inspection.

*BF(LC)*

## **12. Carriage of Goods or Packages**

12.1 The driver of a vehicle is under a duty of care to the passengers to ensure that they travel safely. The carriage of goods or packages in the interior of the vehicle

may put passengers and drivers at risk of injury if the items are not properly secured. Ideally they should be located in an area outside the passenger compartment, e.g. the boot, or in vehicles with a separate driver area, in the footwell adjacent to the driver. If goods are carried in the passenger compartment and a passenger suffers harm due to the presence of the goods, the driver may be liable to pay damages to the passenger. Drivers are strongly advised to check with their insurance company, to avoid carrying any loose goods in the passenger compartment, and to explain clearly to passengers the risk they face in having such goods in the compartment.

*BF(G)*

### **13. Insurance and MOT Certificate**

13.1 It is the responsibility of the owner of the vehicle to ensure that a current insurance certificate and MOT certificate are in place for a licensed vehicle.

*LG(MP)A s57*

13.2 Insurance cover must be for a minimum period of four weeks. A cover note or certificate of insurance must be produced to the Licensing Section prior to or on the day of expiry of the previous certificate.

*BF(LC)*

13.3 Faxed copies will not be accepted; original certificates must be produced. Photocopies of documentation can only be made by Bracknell Forest Council staff. Electronic copies may be accepted, provided the Licensing team can verify the information provided.

*BF(G)*

13.4 A valid MOT certificate must be submitted with each application for a vehicle licence, if required. The MOT certificate must be made available for inspection upon request by an authorised officer. Please note that

the vehicle inspections carried out by the authorised garages include the elements of an MOT.

*BF(LC)*

## **14. Vehicle Inspection**

14.1 Vehicles up to 5 years old from the date of first registration at DVLA will be subject to an annual inspection. Once a licensed vehicle reaches 5 years old from date of first registration, it will require an inspection within the next 6 months, and will be subject to 6-monthly inspections thereafter.

*BF(LC)*

14.2 For a vehicle solely engaged in home/school transport, once the vehicle reaches 5 years old from date of first registration, it will require an inspection within the next 6 months and will be subject to 6-monthly inspections thereafter, unless it is demonstrated that the vehicle is covering less than 8000 miles per year.

*BF(LC)*

14.3 The owner of the vehicle is responsible for ensuring that inspections are carried out as and when required. Details of the authorised garages are available on request or at [www.bracknell-forest.gov.uk/licensing](http://www.bracknell-forest.gov.uk/licensing).

*LG(MP)A s68*

*BF(LC)*

14.4 The vehicle owner will be advised in writing one month prior to the month in which an inspection is due. It is then the responsibility of the owner to make the necessary arrangements directly with one of the authorised garages to ensure the inspection is carried out. If an inspection is not carried out by the due date, the licence will be suspended until such a test has been passed.

*BF(LC)*

14.5 Any failure for an MOT matter will be an immediate failure. Non-MOT matters and MOT advisories will be reported to the Licensing Officer who will contact the licence holder and decide on a course of action on a case by case basis.

*BF(LC)*

14.6 It is a requirement that a spare wheel/wheel-changing equipment must be carried at all times, unless all 4 wheels are using 'run flat' tyres which have been approved by an authorised officer of the Council.

*BF(G)*

## **15. Trailers**

15.1 Trailers can only be used in connection with Private Hire bookings and cannot be used when plying for hire on a rank.

*LG(MP)A s48  
BF(LC)*

15.2 Trailers must comply with the following standards:

- Unbraked trailers shall be less than 750kg gross weight.
- Trailers over 750kg gross weight shall be braked acting on at least two road wheels.
- The towing vehicle must have a kerb weight at least twice the gross weight of the trailer.
- A suitable lid or other approved means of enclosure shall be fitted to secure the contents within the trailer whenever in use.
- The maximum permissible length of the trailer shall be 7 metres including the drawbar and coupling.
- The width of the trailer shall not be greater than the towing vehicle subject to no trailer being wider than 2.3 metres.

- The maximum length for braked twin axle trailers is 5.54 metres.
- The trailer must at all times comply with all Road Traffic legislation requirements in particular those as laid down in the Road Vehicles (Construction and Use) Regulations 1986.
- The vehicle insurance must reflect cover for towing a trailer.
- Trailers must not be left unattended anywhere on the highway.
- The speed restrictions applicable to trailers must be observed at all times.

*LG(MP)A s48  
BF(LC)*

## **16. Equipment**

16.1 Every licensed vehicle shall be fitted with a 1kg BC dry powder type fire extinguisher, which must be kept full and ready for immediate use. It should be securely restrained to prevent damage or accidental discharge and must be marked in permanent ink with the vehicle licence plate number. The extinguisher must comply with BSEN3 (European Standard). It must be serviced in accordance with BS5306 on an annual basis, and a record kept for inspection by authorised officers.

*LG(MP)A s48(2)  
BF(LC)*

16.2 Every licensed vehicle shall carry a first aid kit in such a position as to be readily visible and available for immediate use in an emergency. The First Aid kit shall at a minimum contain the recommended contents for a travelling worker as suggested in the HSE Guidance leaflet L74 “First Aid at Work”:

- HSE leaflet “ Basic Advice on first aid at work”
- 20 individually wrapped sterile plasters (assorted sizes)

- 2 sterile eye pads
- 6 medium and 2 large individually wrapped unmedicated wound dressings
- 4 individually wrapped triangular bandages (preferably sterile)
- 6 safety pins
- 1 pair of disposable gloves.

It is advised not to include ointments or painkillers in the first aid kit.

*LG(MP)A s48(2)  
BF(LC) & BF(G)*

16.3 Every licensed vehicle shall carry a replacement bulb kit appropriate to the vehicle.

*BF(LC)*

## **17. Use of Mobile Phones and Radios**

17.1 Only one two-way radio with a single frequency may be operational at any one time and this shall be an approved radio used exclusively for the hackney carriage/private hire trade and properly licensed with an effective radio power (ERP) **NOT** exceeding 25 watts.

*Wireless Telegraphy Act 1949  
BF(LC)*

17.2 A hand-held mobile phone or radio handset must not be used whilst the vehicle is in motion. It is a criminal offence to use a hand-held mobile phone whilst driving. A driver can also be prosecuted for using a hands-free device if they are not in proper control of their vehicle. Drivers must not stop on the hard shoulder of a motorway to answer or make a call unless it is to dial 999.

*RTA*



## 18. Signs

18.1 All licensed vehicles must display 'No Smoking' signs in each compartment.

*Smoke-free (Signs) Regulations 2007*

18.2 Private hire vehicles must not display a roof sign.  
*BF(LC)*

18.3 Private hire vehicles may display signs on the front doors, provided the sign does not exceed 50cm length and 25cm height, and contains the operator name and telephone number and the words 'Advance Bookings Only'. No other words, devices or logos are permitted.

*LG(MP)A s48(2)*  
*BF(LC)*

18.4 The sign may be attached by means of adhesive transfer or magnetic catches, and must be submitted for approval by the Licensing Section before being used.

*BF(LC)*

18.5 Hackney Carriages must display a roof sign with the word "TAXI", which **must** be illuminated when plying for hire. Door signs may be displayed complying with the conditions listed above, but excluding the words "Advance Bookings Only". The TAXI roof sign may only be removed with permission of the Council or when working outside the Borough.

*BF(LC)*  
*LG(MP)A s47(2)*

18.6 All hackney carriages which display liveried advertising on the vehicle must apply for approval to ensure the advertisement meets the criteria detailed in Appendix F. A fee is payable for this application, and an inspection of the vehicle will be required.

*BF(LC)*

## 19. Identification Plates/Screen Stickers/Badges

19.1 Licence plates must be securely fixed to the rear of the vehicle either by directly fixing it to the bumper or on a secure bracket. The screen sticker must be displayed in the lower nearside corner of the front windscreen. It is an offence not to exhibit the licence plate and screen sticker.

*TPCA s51  
LG(MP)A s48(6)  
BF(LC)*

19.2 The vehicle licence must be carried within the vehicle and be available for inspection by an authorised officer.

*BF(LC)*

## 20. Private Hire Vehicle Dispensation

20.1 The Council may grant a dispensation to certain private hire vehicles which are engaged **solely** in chauffeur/corporate/executive work. No payments should be made directly to the driver of such vehicles.

*BF(LC)*

20.2 A licence plate will not be required to be fixed to the vehicle; however, the licence plate and dispensation certificate must be carried at all times.

*LG(MP)A s75(3)*

20.3 From 1 April 2014, new dispensations shall only be issued to vehicles of the following Euro NCAP categories:

- (i) Executive
- (ii) Large Off Road 4x4

Any vehicles which do not fall within these categories will be considered for dispensation on a case by case basis, in particular those vehicles meeting the definition of a 'prestige vehicle' as defined in Appendix G. It is

recommended that prior to purchasing any such vehicle advice be sought from the Licensing Team.

*BF(LC)*  
*LG(MP)A s48(1ai)*

20.4 The screen sticker must still be displayed in the front windscreen at all times. Failure to comply will result in the loss of the dispensation.

*LG(MP)A s48(2)*  
*BF(LC)*

## **21. Restricted Private Hire Licence Provisions**

21.1 All vehicles and drivers operating for hire or reward must be licensed by the local authority.

*LG(MP)A s46(1a)*

21.2 For drivers and vehicles engaged **solely** in the transport of children from home to school, a specific Home to School transport licence is available.

*BF(G)*

21.3 For drivers of private hire vehicles which are engaged **solely** in chauffeur/corporate/executive work **and** have a dispensation issued by the Council, a specific Chauffeur driver licence is available.

*BF(G)*

21.3 The Council has discretion to allow vehicles that do not conform to certain private hire vehicle requirements to be licensed as Home to School transport vehicles.

*LG(MP)A s48*  
*BF(G)*

21.4 Drivers and vehicles must comply with all other requirements as stated in this document.

*BF(LC)*

## **22. Transfer of Vehicles to New Owners**

22.1 The licence is issued in respect of a specific vehicle, and cannot be transferred to another vehicle without notice to the Council.

*LG(MP)A s49(2)*

22.2 Any owner transferring a licensed vehicle to a new owner must inform the Licensing Section in writing within 14 days of the transfer.

*LG(MP)A s49(1)*

22.3 It is the responsibility of the new owner to ensure that a transfer application is made, and to provide documentation as required for the issue of a new licence.

*LG(MP)A s49(2)*

## **23. Accidents**

23.1 If a licensed vehicle is involved in an accident, even if there is only minor damage to the vehicle, the proprietor must inform the Licensing Section in writing within **72 hours** to allow the vehicle to be inspected and the damage assessed.

*LG(MP)A s50(3)*  
*BF(LC)*

23.2 A vehicle licence will be suspended where major works are required. These repairs must be completed before the expiration of 2 months otherwise, by virtue of Section 68 of the 1976 Act, the vehicle licence shall be deemed to have been revoked.

*LG(MP)A s68*

23.3 With regard to minor damage, repairs should be effected within a period of 28 days of the incident otherwise the vehicle licence will be suspended until repairs have been completed to the satisfaction of the Licensing Officer.

*BF(LC)*

23.4 A temporary replacement vehicle will generally be required to be of a similar specification and standard as the vehicle it is replacing.

*BF(G)*

23.5 A temporary replacement vehicle will only be licensed under the original vehicle licence for a maximum of 2 months, to allow for repairs to be carried out on the original vehicle as mentioned previously in this section. The usual application process applies.

*BF(LC)*

## **24. Taximeter**

24.1 Licensed vehicles equipped with a taximeter of approved design (compulsory for a Hackney Carriage, but optional for a Private Hire Vehicle) must be submitted for a meter test before operating in the Borough. Meters will be subject to further tests as and when required by the Council.

*BF(LC)*

24.2 Meters are tested over the “measured mile” by the Licensing Officer. The meter **must not** incorporate any other licensing authority’s fare structure.

*BF(G)*

24.3 If a meter has to be re-submitted for testing, a charge will be made.

*BF(G)*

24.4 Where a meter is fitted to **any** licensed vehicle, that meter must be used for the charging of any journeys that start and finish within the Borough. A current tariff card must be displayed within the vehicle.

*BF(LC)*

24.5 All licensed vehicles must have a programmed calendar date meter fitted. It must not be possible to change the tariff by manual operation.

*BF(LC)*

## **25. Authorised Table of Fares**

25.1 Under Section 65(1) 'a district council may fix the rates or fares within the district as well as for time and distance, and all other charges in connection with the hire of a vehicle or with the arrangements for the hire of a vehicle, to be paid in respect of the hire of hackney carriages by means of a table made or varied in accordance with the provisions of this section'.

*LG(MP)A s65(1)*

25.2 In the case of journeys ending outside the Borough where a prior agreement has been reached with the hirer, a lesser fare may be charged. Any fares charged **MUST NOT** be higher than that which would have been authorised in the Fares Table.

*LG(MP)A s66*

25.3 If a Hackney Carriage is used under a contract for private hire, it must not charge more than the fixed rate in the authorised fare table.

*LG(MP)A s67*

25.4 A charge is to be calculated from the point in the controlled district where the hirer commences his/her journey.

*LG(MP)A s67*

25.5 Any proposed variation to Hackney Carriage fares will be advertised by a notice published in a local newspaper, stating the proposed fares or variation of the fares. The notice will specify a date not less than 28 days from the date of the notice to allow any objections to be lodged.

*LG(MP)A s65(2a)*

25.6 A copy of the notice will also be available at the Council offices for inspection, free of charge during council opening times.

*LG(MP)A s65(2b)*

25.7 If no objections have been received when the 28 days have expired, the new fares will take effect.

*LG(MP)A s65(3)*

25.8 If objections are made and not then withdrawn, the Licensing and Safety Committee will consider the objections before setting the fare.

*LG(MP)A s65(3)*

## **26. Plying for Hire – Hackney Carriages**

26.1 The penalty for plying for hire without a Hackney Carriage licence applies to both the owner and person in charge of the vehicle.

*TPCA s45*

26.2 “Plying for Hire” means either standing at a duly authorised rank in a street, railway station or on railway premises, on private property or driving within the Borough, exhibiting to the public that the vehicle is available for hire. Only licensed Hackney Carriages may “ply for hire”.

*TPCA s45*

## **27. Guide and Assistance Dogs**

27.1 It is an offence for a driver to refuse to carry guide and assistance dogs unless the driver has a medical exemption certificate. These certificates are issued by the Council and details upon how to apply are available on request from the Licensing Section. A fee is payable for the application.

*DDA s37(4)*

27.2 Drivers, in making an application for an exemption, will need to provide medical evidence to support it.

*DDA s37 (5)*

27.3 This must be provided by a medical practitioner other than the applicant's general practitioner. If the exemption is being applied for on the grounds of a chronic phobia to dogs, the report must be provided by a psychiatrist or clinical psychologist.

*BF(LC)*

27.4 A driver may also commit an offence if they:

- do not accept bookings made by or on behalf of a disabled person who is accompanied by a guide, hearing or other assistance dog;
- make an additional charge for the carrying of the dog.

*DDA s37*



## **28. Carrying Disabled Passengers**

28.1 Under Section 36 of the Disability Discrimination Act 1995, a wheelchair accessible Hackney Carriage must carry a wheelchair user if requested to do so. Assistance as may reasonably be required should be provided at no extra charge. Failure to comply with this section will make the driver, on summary conviction, liable to a fine not exceeding level 3 (£1000) on the standard scale.

*DDA 1995 s36*

28.2 All rear access wheelchair-accessible vehicles are to only pick up and set down wheelchair users in a location where it is safe to do so.

*BF(G)*

## **29. Supervision**

29.1 An authorised Officer of the Council has the power at all reasonable times to inspect and test for fitness any vehicle licensed by the Council or any taximeter fitted in a licensed vehicle. If the officer is not satisfied as to the fitness of the vehicle or as to the accuracy of the taximeter, the proprietor or driver will be required to make the vehicle or taximeter available for further inspection and testing and the vehicle licence may be suspended until such time as the officer is satisfied as to its fitness.

*LG(MP)A s68*

29.2 If the vehicle is not made fit within 2 months, the vehicle licence will be automatically revoked.

*LG(MP)A s68*

29.3 Vehicles and drivers may be subject to spot checks carried out by authorised Officers.

*LG(MP)A s68*

29.4 It is an offence to wilfully obstruct an authorised Officer or fail to give such assistance or information as may be required or to comply with any reasonable requirement. It is also an offence to give false information.

*LG(MP)A s73(1)*

### **30. Operator Licences**

30.1 An Operator Licence is required for the purpose of making provision for the invitation or acceptance of bookings for a private hire vehicle.

*LG(MP)A s55*

30.2 An operator can only use vehicles and drivers licensed by the same authority as the operator.

*LG(MP)A s46*

30.3 All bookings must be made through an operator with a fixed base holding the required operator licence (not through a mobile phone number).

*LG(MP)A s55  
BF(LC)*

30.4 Under health and safety legislation, employer's liability insurance is required. Any premises that provide access to members of the public should also be covered by public liability insurance. As a rule of thumb, if the operator supplies the tools of the trade, for example the supply of a vehicle to a driver, or in the case of office-based personnel the radio equipment, they have a liability. The operator is responsible for ensuring that adequate liability insurance is in place. Insurance documentation should be available for inspection at any reasonable time by an authorised Officer.

*LG(MP)A s55  
BF(LC)*

30.5 If an operator wishes to move to a new base, they should ensure the appropriate planning permission is in place and submit an application for a new operator licence for the new address. If the new licence is granted, the old licence may then be surrendered for a pro-rata refund.

*BF(G)*

## **31. Responsibility of Proprietor or Operator**

31.1 The Council will hold the owner or proprietor of a Hackney Carriage or the owner or operator of a Private Hire vehicle responsible for the general condition and roadworthiness of the vehicle(s), and for ensuring that drivers are familiar with all conditions, legislation and byelaws regulating the operation of vehicles.

*BF(G)*

31.2 In certain instances therefore the proprietor or operator may be subject to enforcement action as a result of an offence committed by the driver of their vehicle.

*LG(MP)A s50*

31.3 The Council will take into account the circumstances of each offence and how far the proprietor has carried out their obligations in deciding whether to take any action against the proprietor.

*BF(G)*

31.4 The records required to be kept by the operator shall be kept in a manner, whether written or on a computer, which enables them to be examined or audited. The operator shall enter or cause to be entered therein, before the commencement of each journey, the following particulars of every booking of a private hire vehicle invited or accepted by him:

- a) Time and date of booking
- b) Name of the hirer

- c) How the booking was made (e.g. telephone)
- d) Price quoted for booking
- e) Time of pick-up
- f) Point of pick-up
- g) Destination
- h) Time at which a driver was allocated to the booking
- i) Driver's badge number or call sign of the vehicle allocated to the booking
- j) Remarks (including full details of any sub-contract).

*LG(MP)A s56(2)*

*BF(LC)*

31.5 All records kept by the operator shall be preserved for a period of not less than 6 months following the date of the last entry.

*BF(LC)*

31.6 If the operator uses a computerised record system, there must be a facility to be able to print a hard copy of the records immediately on the request of an authorised officer of the Council or police officer.

*BF(LC)*

31.7 The operator shall also keep the following records of the drivers and vehicles operated by him, which should be kept available at the base for inspection by an authorised officer or supplied to an authorised officer upon reasonable request:

- a) List of owner and all drivers of each licensed vehicle
- b) Copy of vehicle licence for all vehicles operated
- c) Copy of driver licence for all drivers operated
- d) Copy of insurance document/inspection/MOT
- e) List of all radio call signs used with names of drivers.

*BF(LC)*

31.8 Any changes in drivers or vehicles shall be notified to the Licensing Officer in writing within 48 hours.

*LG(MP)A s56 (3)*  
*BF(LC)*

31.9 The operator shall provide a prompt efficient and reliable service to members of the public at all reasonable times and for this purpose shall in particular:

- Ensure that when a private hire vehicle has been hired to be in attendance at an appointed time and place, the vehicle shall (unless delayed or prevented by sufficient cause) punctually attend at that appointed time and place. Where possible, the operator should contact the customer and inform them of any delay.
- Keep clean, adequately heated, ventilated and lit any premises which the operator provides and to which the public has access whether for the purpose of booking or waiting, and ensure that any waiting area provided by the operator has adequate seating facilities.
- Ensure that any telephone facilities and radio equipment provided are maintained in a sound condition and that any defects are repaired promptly.
- The use of Citizen Band Radio transmitter/ receiver will not be permitted in a licensed vehicle.

*LG(MP)A s55(3)*  
*BF(G)*

## **32. Suspension, Revocation or Refusal of Licences**

32.1 Any contravention will be dealt with in accordance with the Enforcement Policy (see Appendix D).

*BF(G)*

## Vehicle Licences

32.2 The Council may suspend, revoke or refuse to renew a vehicle licence on any of the following grounds:

- The licensed vehicle is unfit for use as a Hackney Carriage or Private Hire vehicle

*LG(MP)A s60*

- Any offence under, or non-compliance with, the provisions of the 1847 or 1976 Acts by the proprietor, operator or driver.

*TPCA  
LG(MP)A s60*

- Any other reasonable cause.

*LG(MP)A s60*

## Driver Licences

32.3 The Council may suspend, revoke or refuse to renew a driver's licence on any of the following grounds:

- That he/she has since the granting of the licence:
  - been convicted of an offence involving dishonesty, indecency, violence, or driving with excess alcohol;
  - been convicted of an offence under or has failed to comply with the provisions of the 1847, 1976 and 1991 Acts as amended; or
  - any other reasonable cause.

*LG(MP)A s61*

## Operator Licences

32.4 The Council may suspend, revoke or refuse to renew an operator's licence on any of the following grounds:

- any offence, misconduct under, or non-compliance with, the provisions of Part II of the 1976 Act as amended;
- any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted; or
- any other reasonable cause.

*LG(MP)A s62*

### **33. Appeals Procedure**

33.1 Where a new or renewal licence application is refused, the applicant has a right of appeal to the Magistrates' Court, or to the Crown Court for Hackney Carriage vehicle licence applications. Where an existing licence is suspended or revoked, the licence holder has a right of appeal to the Magistrates' Court. An appeal must be lodged with either Court within 21 days of notification of the refusal, suspension or revocation.

*LG(MP)A s52*

33.2 The applicant/licence holder may also within 21 days make an application to appeal to the Council's Licensing Appeals and Representations Panel. Upon receipt of an application, the Chief Officer: Environment and Public Protection will decide if the matter is to be referred to the Panel. If referred, the applicant will be informed in writing of the date and time, and will receive information on their rights and the process of the hearing.

*BF(G)*

## **34. Return of Licences**

### Vehicle Licence

34.1 On the suspension, revocation or expiry of a vehicle licence, the proprietor must return the licence plate and screen sticker to the Council within 7 days of receipt of notice. Failure to do so can render the proprietor liable on summary conviction to a fine. Any authorised officer of the Council or a Police Officer shall be entitled to remove and retain the licence plate or screen sticker in such cases.

*LG(MP)A s58*

### Driver's Licence

34.2 On the suspension, revocation or expiry of a driver's licence, the driver must return the badge and licence to the Council on demand. Any authorised Officer of the Council or a Police Officer shall be entitled to retain the licence in such cases.

*LG(MP)A s58*

34.3 The badge, plate and licence remain the property of the Council at all times.

*BF(LC)*

## **35. Offences**

35.1 As well as the suspension or revocation of licences, it may be that the circumstances amount to a criminal offence. In such a case a prosecution for these may also be appropriate.

*LG(MP)A  
TPCA*



## 36. Seat Belts and Child Seats

36.1 Hackney Carriage drivers are exempt by virtue of Regulation 5(h) of the Motor Vehicles (Wearing of Seat Belts) Regulations 1982, providing they are seeking hire, answering a call for hire or carrying a passenger for hire, and the vehicle is carrying a plate showing it is a licensed Hackney Carriage. A similar exemption applies to a Private Hire Vehicle provided it is being used to carry a passenger for hire.

*Motor Vehicles (Wearing of Seat Belts) Regulations 1982*

36.2 Notwithstanding the legal requirements, where vehicles are fitted with a front passenger seat air bag, the driver must be aware of any manufacturer's instructions in relation to the age and height of the person sitting in the front seat. A failure by a driver to take account of those instructions may be regarded as a breach of their duty of care to customers.

*RTA  
BF(G)*

36.3 The law on the use of child car seats is summarised as follows:

	Front seat	Rear seat	Who is responsible?
<b>Child up to 3 years old</b>	Correct child restraint <b>MUST</b> be used.	Correct child restraint <b>MUST</b> be used. If a restraint is not available in a licensed taxi/private hire vehicle, the child may travel unrestrained.	<b>Driver</b>

	Front seat	Rear seat	Who is responsible?
<p><b>Child from 3rd birthday up to 135cm in height (approx 4' 5") (or 12th birthday, whichever they reach first)</b></p>	<p>Correct child restraint <b>MUST</b> be used.</p>	<p><b>Where</b> seat belts are fitted, the correct child restraint <b>MUST</b> be used. The child must use an adult belt if the correct child restraint is not available as follows:</p> <ul style="list-style-type: none"> <li>- in a licensed taxi or private hire vehicle;</li> <li>or</li> <li>- for a short distance in an unexpected necessity; or</li> <li>- two occupied child restraints prevent fitment of a third.</li> </ul> <p>A child 3 years and over may travel unrestrained in the rear seat if seat belts are not fitted in the rear.</p>	<p><b>Driver</b></p>
<p><b>Child over 135cm in height (approx 4' 5") or 12 and 13 years old</b></p>	<p>Seat belt <b>MUST</b> be worn if available.</p>	<p>Seat belt <b>MUST</b> be worn if available.</p>	<p><b>Driver</b></p>
<p><b>Passengers aged 14 years old and over</b></p>	<p>Seat belt <b>MUST</b> be worn if available.</p>	<p>Seat belt <b>MUST</b> be worn if available.</p>	<p><b>Passenger</b></p>

## **37. Complaints**

37.1 Complaints received from members of the public regarding the service and conduct of drivers/vehicles and operators will be considered, and where appropriate, investigated by the Licensing Officer.

*BF(G)*

## **38. Service Standards**

38.1 Within 2 clear working days of receipt of all documentation necessary to make a decision upon a licence application, we aim to:

- issue all the necessary documents, badges or plates, and notify you that they are ready for collection; or
- advise you of the reason for a delay or, in some cases, the reason for refusal.

*BF(G)*

38.2 Some applications require us to make enquiries of other agencies and they may take over 4 weeks to supply the necessary information.

*BF(G)*

38.3 When making an application, you are required to provide information and documentation as detailed on the application form. A failure by you to provide this will unnecessarily delay the decision on your application. Certain documents must be provided together at the same time and unless they are received as required, they will be returned to you and the application will be delayed until they are provided as requested.

*BF(G)*

38.4 Information provided on application forms is held on a database and will only be disclosed to other agencies where there is a legal requirement to do so.

*BF(G)*

38.5 Where new licence conditions are being considered, the Council will look to consult the trade. Where conditions are revised in line with new legislation, every effort will be made to advise the trade. Where a new condition is applied to a licence, the licence holder is entitled to appeal to a Magistrates' Court within 21 days of that application of the condition.

*BF(G)*

### **How to contact the department:**

If you have any queries about an application or licensing matter, it is recommended that you contact the Customer Service Centre in person, by phone or by email. In the vast majority of cases they will be able to answer your queries, but if not then they will make arrangements for you to speak to a member of staff best able to deal with your enquiry.

**Visit:** Reception at Time Square, Market Street, Bracknell.  
The office is open from 8.30am to 5.00pm Monday to Friday.

**Telephone:** 01344 352000

**Email:** [licence.all@bracknell-forest.gov.uk](mailto:licence.all@bracknell-forest.gov.uk)

**Write to:**

Licensing Section, Time Square, Bracknell, RG12 1JD

**Find us online:**

[www.bracknell-forest.gov.uk/licensing](http://www.bracknell-forest.gov.uk/licensing)

## APPENDIX A

### **Guidance on the Relevance of Criminal Records in respect of Applicants for Driver or Operator Licences**

Unless otherwise specified, all applicants must complete a Disclosure and Barring Service application form prior to the grant of a licence and then every three years or as requested by the Licensing Section.

All past convictions will be considered against the following guidelines and other relevant guidance. For the purposes of this document “convictions” include a caution where the offender has formally admitted the offence in writing as required within Home Office circular 016/2008. Examples of the relevance of past convictions in relation to the grant, renewal, suspension and revocation of driver and operator licences are detailed below. It must be stressed that these examples are for guidance only and every case will be judged on its merits, with the overriding principle being that of the protection of the public, both customers and other road users. Where multiple convictions of a similar type have occurred, a minimum period of five years free from conviction may be required.

#### 1. Minor traffic offences

Convictions for minor traffic offences (e.g. obstruction, waiting in a restricted street or speeding) should not prevent a person from proceeding with an application.

However, if sufficient penalty points have been accrued to require a period of disqualification of the applicant’s DVLA driving licence, then a licence may be granted after its restoration, but a warning will be issued as to future conduct.

## 2. Major traffic offences

An isolated conviction for reckless driving or driving without due care and attention etc. will normally merit a warning as to future driving, and advice on the standard expected of licensed drivers. More than one conviction for this type of offence within the last two years should merit a refusal. No further application should be considered until a period of three years from the last conviction has elapsed.

## 3. Intoxication through use of alcohol or illegal drugs

### Offences related to use of motor vehicle

A serious view is taken of convictions of driving or being in charge of a vehicle while under the influence of alcohol or illegal drugs.

Where there is a recent conviction for this type of offence, the application will be refused. At least three years should elapse (after the restoration of the DVLA driving licence) before the applicant will be considered for a licence. Applicants may also be required to undergo a special medical examination. If an applicant is found to be an alcoholic or dependant on illegal drugs, or where there is more than one conviction of this type, a period of five years from completion of treatment or restoration of the licence should elapse before a further application is considered.

### Offences not related to use of motor vehicle

An isolated conviction for drunkenness need not debar an applicant from being granted a licence. However, more than one conviction for drunkenness could indicate a medical problem necessitating a special medical examination. In some cases, a warning may be sufficient.

An applicant with a conviction for a drug-related offence will be required to show a period of at least three years free of convictions before an application is entertained, or five years after detoxification treatment if they were dependant on illegal drugs.

#### 4. Indecency offences

Applicants with convictions for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences, will normally be refused.

#### 5. Violence

Any convictions for violence such as grievous bodily harm, wounding or assault, will be refused until at least five years has elapsed from the expiry of any sentence.

#### 6. Dishonesty

Applicants with a single conviction for a minor incident will be refused until there has been one year free from conviction. Applicants with two convictions for minor incidents will be refused until there has been three years free from conviction. Applicants with more than two convictions for minor incidents or one or more convictions for a significant act of dishonesty will be refused until there has been five years free from conviction.

#### Information

In clarification of the above, the recorded date of the court conviction is to be taken as the period to remain free of conviction from, unless a sentence of imprisonment or corrective training exceeding 30 months has been imposed, when the period commences from the date of release from imprisonment.

## APPENDIX B

### Advice for Drivers when dealing with People with Disabilities

Taxis are an important, and sometimes the only means of transportation for many people with disabilities.

It may be that you drive or operate a vehicle designed to make travelling easier for disabled people, but an accessible vehicle is only part of the answer. Your attitude and understanding of the problems that may be faced by people with disabilities is very important.

Disability comes in many forms – not always visible. Never make assumptions, always ask what help (if any) a passenger may need from you. Make sure that you are familiar with any access and safety equipment in your vehicle. Be ready to help, but do not insist on helping. If you are asked to help, listen carefully to the information given, or ask what is the best way to assist.

The following is some basic advice to assist you in giving the best service to your passenger.

#### **Wheelchair Users**

If a passenger is a wheelchair user, you should:

- Leave the passenger in a safe and convenient place which enables them to move away independently.
- Always ask the customer to make sure that the brakes of the wheelchair are on.
- Secure the wheelchair and suggest that the passenger uses the seat belt provided.



- Avoid sudden braking or acceleration.

If you drive a saloon car, you may still be able to take wheelchair users provided that the passenger is able and willing to transfer. In those circumstances, you should ask the passenger what help they require, listen to their response, and act only as advised. Take care when loading the wheelchair into the boot. Wheelchairs can be expensive to repair or replace and without it the passenger may be totally immobile. Some wheelchairs are collapsible and some parts, such as handles and plates may come away easily, so care needs to be taken when folding or loading collapsible wheelchairs.

### **Ambulant Disabled**

Whilst some ambulant disabled may use crutches or sticks, many disabled people who have mobility difficulties will not. People, with arthritis in particular, may be unable to walk using a stick or crutches due to painful upper limbs. If the passenger appears to have walking difficulties, or is frail or elderly, always:

- Offer to fit the additional step if there is one – this reduces the first step and makes it easier to get into vehicles. If in an MPV, ask whether pulling up as close as possible to the kerb would be helpful. For saloon cars this may not be useful because it increases the height the passenger has to drop down to the seat and may make it more difficult for them to get out of the seat at the end of the journey.
- If you have used a swivel seat, make sure it is locked back in position once inside the vehicle.

## Visually Impaired Passengers

If a passenger is blind or partially sighted, ask what assistance they require and always:

- Look out for the “TAXI” sign which may be held out by some visually impaired people in order to hail a cab.
- If you are knowingly collecting a visually impaired passenger from a pre-booked location, knock at the door on arrival – do not remain in the cab and sound your horn.
- If your customer would like to be accompanied to or from the entrance of a building, offer them your arm (gripping just above the elbow will enable them to be guided more easily).
- Tell your passenger whether they are entering a saloon car or purpose-built cab.
- Demonstrate which way the doors open where appropriate.
- If possible, place a visually impaired person’s hand on the open door and indicate the position of the roof.
- Make sure the passenger(s) know which way the vehicle is facing.
- Make sure the passenger(s) are seated and have secured the seat belt (where applicable) before you move off. They may require assistance with the belt.
- Tell passenger(s) if you are taking a different route from that which they might expect, or if there is a hold-up or diversion.

- Tell passenger(s) the fare and count out the change.
- Set the passenger(s) down in a safe place and make sure they know where they are going.
- Remember guide dogs are trained to remain on the floor of a vehicle and will not abuse your vehicle. Refusal to carry a guide dog without a medical exception is an offence under the Disability Discrimination Act and is in contravention of the conditions of your licence. In saloon cars, there is more room for the dog on the floor in the front of the vehicle.

### **Hearing Impaired Passengers**

If a passenger's hearing is impaired, always:

- Look at them when you are speaking. Speak clearly, but do not shout and do not use your hands to gesticulate in front of your face.
- Have a pad of paper and pen handy, as it is sometimes easier to communicate in writing.
- Make sure that they are aware that you have understood their instructions and that you know where the passenger is going.

### **Maintenance of Vehicles**

- Keep door handles, locks and hinges well lubricated. This reduces the amount of physical (often painful) effort required to operate them.

## APPENDIX C

### **Advice for Drivers and Operators when dealing with Difficult Passengers**

It is recognised that taxi drivers do on occasions have to deal with customers who, due to the influence of substances such as alcohol and possibly drugs, can be difficult and dangerous. These passengers can exhibit aggressive and sometimes violent tendencies, which can threaten the safety and welfare of the driver. If the vehicle is in motion, then this behaviour can distract a driver and may lead to the loss of control of the vehicle, with serious consequences for the occupants and other highway users. To assist drivers in dealing with these situations, the following guidelines have been issued:

1. Upon arrival to collect passengers, a driver may make a judgement as to whether the intended passengers are fit to travel in the vehicle. If a person is judged by the driver to represent a risk by their behaviour to the driver or other passengers, the driver may make the decision to refuse entry to the vehicle. The driver must inform the person of the reason for refusal and consider if this action has induced a change in that behaviour. If no change is evident, the driver must inform his base of his decision as soon as possible.
2. If passengers during a journey exhibit behaviour which is likely to threaten the safety or welfare of a driver, the driver must stop the vehicle at the earliest possible moment in a safe location. In deciding upon the location, the driver must take into account the possible risks to the passengers and themselves whilst stationary in that location. For example, is the stopping place likely to be hazardous to other traffic, or should the passengers leave the vehicle will they be at risk

from traffic? The driver should not attempt to continue on the journey until the behaviour has modified.

3. There may be occasions when the threat to the driver's safety is at such a level that it is necessary to stop the vehicle immediately. In doing so, the driver must be aware of the risks to other traffic in taking such action. The driver should take account of the Highway Code, in particular the sections on 'Waiting and Parking' and 'Breakdowns and Accidents', in making their decision. The driver must advise passengers on how and when to leave the vehicle and, if appropriate, where to stand in line with the guidance in the Highway Code.
4. Where the behaviour of passengers has resulted in a refusal to carry or in the stopping of a journey, the driver should contact his operator and advise them of the circumstances and location. The operator or driver should consider if the incident requires police attendance and, if deemed necessary, request it. A record should be kept by the driver or operator of any incident that occurs which they should produce at the request of an authorised Officer or Police Officer.
5. In vehicles where the driving section is separate from the passenger section by a partition, the driver should consider driving directly to a police station or to a public place, such as their operating base. At these locations, the risk to the safety and welfare of the driver can be limited.
6. In cases where the passenger(s) showing threatening behaviour are female, it is advised where possible to take the passenger(s) to a well lit area which is covered by CCTV, such as a 24-hour petrol station.

## **APPENDIX D**

### **Recording of Contraventions**

The Council has agreed a system whereby infringements of the law or licence conditions by a licence holder can be recorded and given a value dependent upon the nature of the infringement. Any licensed person who in the opinion of an authorised officer has committed an infringement will be issued with a notice as shown on the following page.

If the licence holder believes that a notice has been issued in error, or that there are mitigating circumstances not taken into account by the officer, there is a right of appeal to the Chief Officer: Environment and Public Protection at Time Square within 14 days of receiving the notice.

Please note that appeals will not be considered where there is a proven breach of construction and use regulations, such as an illegal tyre.

If the appeal is in respect of documentation provided to the Council, the applicant must provide proof that such documentation was submitted in the form of a receipt or similar. Failure to do so may render the appeal invalid.

The licence holder may be invited to a meeting to discuss the appeal.

The licence holder will receive notification of the decision of the appeal within 30 days of receipt of the notice of appeal.

The issue of a notice does not prevent the department from taking any other action in line with its published enforcement policy, including prosecution where this is felt to be appropriate.

Where 12 or more points are issued to a licence holder within a 12-month period, a report may be submitted to a meeting of the Licensing Panel for a decision to be made on whether the licence should be suspended or revoked. The Panel will receive the report from officers and invite representations from the licence holder.

The present list of infringements and points will be reviewed on an ongoing basis.

**BRACKNELL FOREST COUNCIL**

Licensing Section, Time Square, Market Street, Bracknell, RG12 1JD  
 01344 352000 licence.all@bracknell-forest.gov.uk

<b>Contraventions</b>	<b>Points</b>	<b>✓</b>	<b>Contraventions</b>	<b>Points</b>	<b>✓</b>
Unlicensed vehicle	12		Overcharging	6	
Driving with no valid insurance	12		Private hire vehicle parked on rank	6	
Unlicensed driver	12		Smoking in vehicle	6	
Driving with no valid MOT/inspection	12		Hackney carriage left unattended on rank	4	
Contravention of Stop Notice/suspension	12		Failure to notify accident	4	
Private Hire plying for hire	12		Failure to comply with traffic sign or signal	4	
Behaving in a disorderly manner	12-4		No Smokefree signage	4	
Failure to wear or display driver badge	8		Failure to provide MOT, inspection or insurance document	4	
Illegal tyres (per tyre)	8		Illegal use of bus lane	4	
C&U regulations	8-4		Failure to notify change of details	4	
Too many passengers	8		Horn misuse	3	
Failure to notify conviction, caution or fixed penalty notice	6		Failure to carry required equipment	3	
Failure to display plate or stickers	6		Vehicle in an unclean condition	2	
Use of hand held phone or radio while driving	6		Other:		

Details:

Plate no: ..... Vehicle reg no: ..... Badge no. ....

Driver's name: .....

The contravention(s) above mean(s) that you have acquired points.

If you believe that this notice has been issued in error, or that there are mitigating circumstances not taken into account by the officer, there is a right of appeal to the Chief Officer: Environment and Public Protection at Time Square within 14 days of receiving this notice. You will receive notification of the decision of the appeal within 30 days of receipt of the notice of appeal.

Date: ..... Officer: .....



## APPENDIX E

### Enforcement Table Town Police Clauses Act 1847

Section	Offence
40	Giving false information on application for HC proprietor's licence
44	Failure to notify change of address of HC proprietor
45	Plying for hire without HC proprietor's licence
47	Driving a HC without HC driver's licence
47	Lending or parting with HC driver's licence
47	HC proprietor employing unlicensed driver
48	Failure by HC proprietor to hold HC driver's licence
48	Failure by HC proprietor to produce HC driver's licence
52	Failure to display HC plate
53	Refusal to take a fare
54	Charging more than the agreed fare
55	Obtaining more than the legal fare
56	Travelling less than the lawful distance for an agreed fare
57	Failing to wait after a deposit to wait has been paid
58	Charging more than the legal fare
59	Carrying other person than the hirer without consent
60	Driving HC without proprietor's consent
60	Person allowing another to drive HC without proprietor's consent

61	Drunken driving of HC
61	Wanton or furious driving or wilful misconduct leading to injury or danger
62	Driver leaving HC unattended
64	HC driver obstructing other HCs

**Enforcement Table  
Hackney Carriage Provisions  
Local Government (Miscellaneous Provisions) Act  
1976**

<b>Section</b>	<b>Offence</b>
49	Failure to notify transfer of HC proprietor's licence
50(1)	Failure to present HC for inspection as required
50(2)	Failure to inform local authority where HC is stored if requested
50(3)	Failure to report an accident to local authority
50(4)	Failure to produce HC proprietor's licence and insurance certificate
53(3)	Failure to produce HC driver's licence
57	Making false statement or withholding information to obtain HC driver's licence
58(2)	Failure to return plate after notice given after expiry, revocation or suspension of HC proprietor's licence
61(2)	Failure to surrender driver's licence after suspension, revocation or refusal to renew
64	Permitting any vehicle other than HC to wait on a HC stand
66	Charging more than the meter fare for a journey ending outside the district, without prior agreement
67	Charging more than the meter fare when HC

	used as private hire vehicle
69	Unnecessarily prolonging a journey
71	Interfering with a taximeter
73(1)(a)	Obstruction of authorised Officer or constable
73(1)(b)	Failure to comply with requirement of authorised Officer or constable
73(1)(c)	Failure to give information or assistance to authorised Officer or constable

**Enforcement Table  
Private Hire Provisions  
Local Government (Miscellaneous Provisions) Act 1976**

<b>Section</b>	<b>Offence</b>
46(1)(a)	Using an unlicensed PH vehicle
46(1)(b)	Driving a PH vehicle without a PH driver's licence
46(1)(c)	Proprietor of a PH vehicle using an unlicensed driver
46(1)(d)	Operating a PH vehicle without a PH operator's licence
46(1)(e)	Operating a PH vehicle when the driver is not licensed as a PH driver
48(6)	Failure to display PH vehicle plate
49	Failure to notify transfer of PH vehicle licence
50(1)	Failure to represent PH vehicle for inspection as required
50(2)	Failure to inform local authority where PH vehicle is stored if requested
50(3)	Failure to report an accident to local authority
50(4)	Failure to produce PH vehicle licence and insurance certificate
53(3)	Failure to produce PH driver's licence
54(2)	Failure to wear PH driver's badge

<b>Section</b>	<b>Offence</b>
56(2)	Failure by PH operator to keep records of bookings
56(3)	Failure by PH operator to keep records of PH vehicles operated by him
56(4)	Failure to produce PH operator's licence on request
57	Making false statement or withholding information to obtain PH driver's or obtain PH driver's or operator's licence
58(2)	Failure to return plate after notice given after expiry, revocation or suspension of PH vehicle licence
61(2)	Failure to surrender driver's licence after suspension, revocation or refusal to renew
67	Charging more than the meter fare when HC used as PH vehicle
69	Unnecessarily prolonging a journey
71	Interfering with a taximeter
73(1)(a)	Obstruction of authorised Officer or constable
73(1)(b)	Failure to comply with requirement of authorised Officer or constable
73(1)(c)	Failure to give information or assistance to authorised Officer or constable

## APPENDIX F

### CRITERIA FOR ADVERTISING ON HACKNEY CARRIAGES

1. All advertisements must comply with the British Code of Advertising Practice, Sales Promotion and Direct Marketing and it is the responsibility of the agency or individual seeking the Council's approval to ensure that they do so.
2. Each application will be considered on its merits, but advertisements containing the following will not be approved:
  - a) Those with political, ethnic, religious, sexual or controversial texts;
  - b) Those for escort agencies or massage parlours;
  - c) Those displaying nude or semi-nude figures;
  - d) Those which seek to involve the driver as an agent of the advertisers;
  - e) Those likely to offend public taste (including material depicting bodily functions and the use of obscene or distasteful language);
  - f) Those which seek to advertise more than one company.
3. All advertisement liveries must be approved by the Council and proposals must be accompanied by full colour, three-view art work.

4. The hackney carriage may be required to attend the Council offices for inspection of the finished livery.
5. The bodywork of the hackney carriage must be maintained in good condition. If any panels on the vehicle are damaged, they must be replaced within 7 days.
6. No secondary advertising of any kind will be permitted, whether in the form of the logo of the company preparing the vehicle or the name of the advertising agency.
7. No logos or words will be allowed on the boot lid area.
8. If approved, the livery may remain on the vehicle for a period of one year. At the end of that year, the vehicle owner may apply for an extension for a further 12 months which may be granted subject to an inspection of the quality of the livery and bodywork. This would be subject to a renewal application process and fee.

## **APPENDIX G**

### **AGE LIMITATION ON VEHICLES**

#### **Exceptional Condition**

A vehicle will not be regarded as in “exceptional condition” except where evidence has been presented to the Council that the vehicle has been regularly serviced and maintained in line with the manufacturer’s servicing schedule.

When considering the exterior and interior of the vehicle the following matters will be taken into consideration in judging if the condition is exceptional. A single item dependant upon the extent of damage or cosmetic appearance will not necessarily result in refusal to extend the use of the vehicle but 2 or more items in all areas will require correction, replacement or repair for an extension to be granted.

#### **Exterior of vehicle**

1. The exterior paintwork on the vehicle should not:
  - a) shows signs of rusting
  - b) be faded or show signs of mismatched paint repairs
  - c) have 5 or more stone chips greater than 2mm in length in any direction
  - d) have 8 or more stone chips of any size
  - e) have any scratches, cracks or abrasions where the top layer of paint has been removed.
  
2. The exterior bodywork of the vehicle should not:
  - a) have 2 or more dents greater than 10mm in length in any direction

- b) have 4 or more dents less than 10mm in length in any direction
  - c) have fittings that are missing, broken or damaged.
3. Have wheels and wheel trims that have significant damage which detracts from the overall excellent condition of the vehicle.
  4. The vehicle must be submitted for inspection in a clean state such that an effective inspection is possible. Should the vehicle be submitted in an unclean state then the application shall be refused.
  5. The engine compartment must not be in a dirty condition or have evidence of leaks including water, oil or hydraulic fluids.

### **Interior of vehicle**

6. The seating and carpet areas of the vehicle shall not show signs of:
  - a) staining
  - b) damp
  - c) fraying or ripping of the material
  - d) seat covers that are loose or badly fitted.
7. The seats should provide sufficient support for comfortable travel and should not demonstrate excessive compression of the seating area or wear within the support mechanism.
8. Interior panels and fittings within the vehicle should not be damaged nor show excessive wear, or staining.
9. The interior of the vehicle should not have damp or other obnoxious smells.



## **Abnormally Low Mileage**

The Council will not regard a vehicle as having travelled an abnormally low mileage in the following circumstances:

1. A vehicle intended for normal private use with a mileage in excess of 200,000 miles, or
2. A vehicle purposely built for use as a licensed vehicle with a mileage in excess of 300,000 miles, or
3. A “prestige car” with a mileage in excess of 300,000 miles.

## **Prestige Car**

A “prestige car” is to be defined as an executive style vehicle with the following minimum requirements:

1. Be a four door saloon motor car and would not normally be a hatchback
2. Be not less than 14.9 ft (4470mm) in length
3. The vehicle interior and exterior shall be of the very highest quality in design and use of materials available.
4. Must have sufficient space for passengers and equipment in so much as:
  - a) rear height (seat to roof, measured from point of contact between seat cushion and back of seat) - 36” (91cm)
  - b) depth of seat – 20” (51cm)
  - c) knee space – (back of seat squab) with front seats fully back – 29” (73.5cm)

5. The vehicle should carry no more than:
  - a) one passenger in the front;
  - b) three passengers in the rear, unless it is specifically designed or adapted to do so;
  - c) each rear seat passenger should have a minimum clear seat width for each passenger of at least 19” (48.2cm).
6. The engine capacity must exceed 2 litres.
7. The vehicle must not be designed or adapted as a personnel carrier, mini bus, people mover or other like vehicle.

### Comments Received: Consultation on Revisions to Guidance Notes and Conditions Document

NB: All three comments are from persons licensed as operators of private hire vehicles in Bracknell Forest

	<b>Comment</b>	<b>Officer response</b>
1.	Condition 10.2 What about us 1 car people with exe (executive) cars? You are taking it from 9 years back to 8 years why?	There are no proposed revisions to condition 10.2 and no proposed changes to the age of vehicle policy, it is simply being re-worded for clarity
2.	I agree with the revisions for 1 April 2015 and think they are good. I do believe however that the mileage of a vehicle should be more of an issue on first registration and ongoing renewal. Proven service records should also be seen and stamped by a competent service agent.	The suggestion that mileage should be taken into consideration on each application has been noted and shall be considered on the next review of the age of vehicle policy. If service records are required to be seen by officers, we would expect this documentation would be stamped or certified by a competent person.
3.	Have no problem with notes	None

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**Revisions to Guidance Notes and Conditions for Hackney Carriage and Private Hire Vehicle Owners, Operators and Drivers with effect from 12 June 2015**

**New condition:**

All licensed operators are required to report details of any convictions, cautions or fixed penalty fines imposed within 28 days of the conviction, caution or fixed penalty. Details should be entered on the 'Notification of Conviction, Caution or Fixed Penalty' which is available at [www.bracknell-forest.gov.uk/licensing](http://www.bracknell-forest.gov.uk/licensing) and by hard copy on request.

**New condition:**

The operator shall not knowingly or recklessly employ anyone as a controller to receive bookings and despatch vehicles, who has been deemed 'not fit and proper', by any local authority, to hold a private hire operator, private hire driver or dual/hackney carriage driver's licence, unless approved by the Council.

**New condition:**

Only trading or company name(s) that are written on the operator licence, or other trading name approved by the Council in writing, shall be used for trading in the Borough of Bracknell Forest.

**New condition:**

For any vehicles insured under a fleet policy or temporary cover note, and any temporary replacement vehicles, the vehicle licence holder must ensure that a copy of the vehicle insurance cover note or certificate is retained in the vehicle at all times and made available on demand.

**Amend current condition 31.6:**

From:

If the Operator uses a computerised record system, there must be a facility to be able to print a hard copy of the records immediately on the request of an authorised officer of the Council or police officer.

to:

The operator shall at all reasonable times provide authorised officers of the Council and the Police with any information necessary for the purpose of checking booking records. Whenever the company office is open for accepting bookings, the operator shall ensure that there is an authorised member of staff present who has received suitable and sufficient training and instruction concerning the provision of information required, including the ability to satisfactorily and competently operate any computer system used for the purpose.

**Amend current condition 3.2**

From:

As the Council bases its fees on the provision of the service, no refunds shall be made except in exceptional circumstances.

to:

No refunds shall be payable in respect of driver licences which have been granted, as the fee paid covers the cost of administration of the application.

Where a vehicle licence or operator licence is surrendered, a partial refund may be payable subject to the deduction of the appropriate refund processing fee.

**Amend current condition 10.1:**

From:

A vehicle submitted for initial licensing must be less than 5 years old or, if wheelchair accessible, less than 4 years old from date of first registration. The maximum age of a vehicle that may continue to be licensed is 8 years from date of first registration for saloon and estate vehicles, and 10 years for a purpose-built Hackney Carriage.

to:

A vehicle submitted for initial licensing must be less than 5 years old or, if wheelchair accessible, less than 4 years old from date of first registration.

The maximum age of a vehicle that may continue to be licensed is 8 years from date of first registration for all types of private hire vehicle, and 10 years for hackney carriages.

**TO: LICENSING AND SAFETY COMMITTEE  
11 JUNE 2015**

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**LICENSING CRIMINAL CONVICTIONS POLICY  
Chief Officer: Environment and Public Protection**

**1 PURPOSE OF REPORT**

- 1.1 This report examines the criminal convictions element of the 'Fit & Proper' test as currently applied for drivers of Hackney Carriages and Private Hire vehicles. It proposes a more focussed stand alone Policy which should be applied when making decisions as to the granting, suspension or revocation of driver licences.
- 1.2 This report enables us to look at the relevance of convictions and the character of the person in more detail. If agreed we would consult on the proposed changes in the determination and application of such matters.

**2 RECOMMENDATIONS**

**2.1 That the Committee agrees that:**

**(a) a draft Licensing Criminal Convictions Policy based upon the document attached as Annex A be published for the purposes of consultation and**

**(b) the results of that consultation be brought back to this Committee for further consideration**

**3 REASONS FOR RECOMMENDATIONS**

- 3.1 It is good practice to keep Policies under review and where necessary update them so they better reflect the present need within the local area and national agenda. The present Policy has been considered by members annually as part of the Guidance Notes review and there have been only very small amendments made. The recommendation, if adopted, would see a significantly more comprehensive review of the Policy together with aim to produce a document which sets out clearly the process and options for decision making.

**4 ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 The Council could continue to utilise the existing guidance but there will exist a higher risk of a successful challenge in the Appeal Court directed at the suitability of the process the Council uses in its decision making.

**5 SUPPORTING INFORMATION**

- 5.1 The Local Government (Miscellaneous Provision) Act 1976 provides that a Licensing Authority must satisfy them selves that the applicant is a fit and proper person to hold a drivers licence. This has not been judicially defined but in the case of a suspension of a driver in Leeds City Council v Hussain it was said by the Judge

*"To prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty and that they are people who would not take advantage of their employment to abuse or assault passengers"*

- 5.2 There have been a number of high profile incidents in recent years particularly around child protection issues and sexual attacks on women which suggest that we should revisit and review our present policy particularly around the issues of convictions and the character of applicants and licensed drivers. Are the people driving vulnerable people such as your wife, daughter, son or grandparents a 'safe and suitable' person to hold a drivers licence?
- 5.3 The Council at present requires applicants and licenced drivers to provide information on their health, driving record and their criminal record. In addition they must also undertake tests on their knowledge of the relevant law and the local area. There is national guidance in the form of DVLA Group 2 medical standards to be applied to taxi drivers. All these elements are considered within the "fit and proper" test
- 5.4 Both Hackney Carriage and Private Hire drivers are exempt from the Rehabilitation of Offenders Act 1974. This means that there are no 'spent' convictions and any and all criminal convictions can be taken into account by a Local Authority in assessing safety and suitability. Enhanced Disclosure and Debarring Service (DBS) certificates are obtained by the authority in respect of a new applicant and these are renewed every 3 years. To assist the Authority to make decisions upon information received we have in our present Guidance Notes, Appendix A, page 40 which is based upon Department of Transport Notes issued over 20 years ago.
- 5.5 Taxis are used by a large selection of the public but most regularly they are used by vulnerable groups such as children, the elderly, disabled people and the intoxicated. These groups in particular and lone females are placing themselves, and their personal safety, completely in the hands of a driver. As a passenger they may not have any control of what the driver does, be it drive badly, take them to a remote location, or assault them mentally or physically.
- 5.6 I would draw attention to page 15 of the Local Government Authority Taxi and Private Hire Vehicle Councillors Handbook and the suggestion that a Council should review its policy on the application of convictions and also consider what is termed 'soft intelligence'. This is often information contained on Police records particularly around sexual offences where allegations have been made but for a variety of reasons a decision has been taken not to prosecute or pursue the allegation. This will mean there is no conviction recorded, or the person may have been charged with an offence and found not guilty. Such information should be handled very carefully and a balanced and proportionate approach adopted when considering its relevance and importance.
- 5.7 Our present guidance, Appendix A, looks quite robust and there have been a number of discussions by Members over the years as to the relevance and weight of matters presented to them when faced with such decisions. The Local Government Association is in the process of providing a template for a Licensing Criminal Conviction Policy which is attached in a draft form as Annex A to this report. It is suggested that the content within this template will help to add greater clarity for both the person making a decision and for an applicant or licensed driver who has criminal convictions or allegations made against them. The recommendation is therefore that officers use this template to draft a new policy for Bracknell Forest, release it for consultation and bring it back to this committee with the results of that consultation together with a policy document for consideration and adoption.



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

Borough Solicitor

6.1 The relevant legal provisions are contained within the main 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 There are no implications arising from this report.

Strategic Risk Management Issues

6.4 If the Council does not have a robust Policy in place then there is an increased risk of successful challenges in the Courts to decisions made by the Council.

Background Papers

Guidance Notes and Conditions for Hackney Carriage and Private Hire Vehicle Owners, Operators and Drivers April 2015  
LGA Taxi and Private Hire Vehicle licensing – A Handbook for Councillors – 2015  
Draft Taxi and PHV Licensing Criminal Convictions Policy - 2015

Contact for further information

Robert Sexton  
Head of Regulatory Services  
01344 352580  
[robert.sexton@bracknell-forest.gov.uk](mailto:robert.sexton@bracknell-forest.gov.uk)

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**Note to licensing practitioners:**

*Unless indicated the timescales suggested within this template are intended as **guidelines only** for licensing authorities and are not statutory.*

## **Taxi and PHV Licensing Criminal Convictions' Policy**

### **1. Introduction**

- 1.1 The purpose of this policy is to provide guidance on the criteria taken into account by the council when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a hackney carriage and/or private hire vehicle licence.
- 1.2 The overriding aim of the licensing authority is to protect the safety of the public. The licensing authority is concerned to ensure:
  - That a person is a fit and proper person.
  - That the person does not pose a threat to the public.
  - That the public are safeguarded from dishonest person.
  - The safeguarding of children and young persons.
- 1.3 This policy provides guidance to any person with an interest in public and private hire licensing. In particular, but not exclusively:
  - Applicants for drivers' licenses
  - Existing licensed drivers whose licences are being reviewed
  - Licensing officers
  - Members of the licensing committee/ panel (or other relevant decision making body)
  - Magistrates hearing appeals against local authority decisions
- 1.4 Where licensing officers have delegated powers to grant licences, they will utilise these guidelines when making a decision to grant a licence. In all other cases applications for licences will be referred to the licensing committee/panel (or other relevant decision-making body). Whilst officers and the committee/panel will have regard to the guidelines contained in the policy, **each case will be considered on its individual merits and, where the circumstances demand, the committee/officer may depart from the guidelines.**

### **2. General policy**

- 2.1 There may be occasions where it is appropriate to depart from the guidelines, for example where the offence is a one-off occasion or there are mitigating

- circumstances or alternatively where there are many or continuous offences which may show a pattern of offending and unfitness.
- 2.2 A person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but would normally be expected to:
- a. Remain free of conviction for an appropriate period; and
  - b. Show adequate evidence that her or she is a fit and proper person to hold a licence (the onus is on the applicant to produce such evidence).  
(Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence).
- 2.3 **Where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the conviction** [Nottingham City Council v. Mohammed Farooq (1998)].

### 3. Pre-requisites to making an application

- 3.1 It is the policy of the licensing authority that every application for a licence to drive a Hackney Carriage and/or Private Hire Vehicle must be accompanied by satisfactory evidence of the following matters (and that applications that are incomplete will not be deemed to have been made until such time as they are completed) -
- That the applicant has the right to live and work in the country
  - An enhanced criminal record check and evidence that they are not on a child and/or vulnerable adult barring list
  - A certificate of their current medical fitness [to Group 2 standard]
  - That the applicant is authorised to drive a vehicle of the same classification as that which the licence will allow them to drive
  - That the applicant has a minimum of three years post-qualification driving experience (or if not, successful completion of an advanced driving assessment)
  - That the applicant has adequate literacy and numeracy skills to provide the service that they wish to be licensed for
  - That the applicant has sufficient ability to speak English and to understand spoken English to provide the service that they wish to be licensed for

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- That the applicant has completed safeguarding awareness training specific to the service that they wish to be licensed to provide (including in respect of sexual exploitation and disability)
  - (For persons who seek to be authorised to drive a wheelchair accessible vehicle) that the applicant has the ability to safely load and secure wheelchair users in a wheelchair accessible vehicle whilst in their chair
- 3.2 If an applicant has spent six continuous months or more overseas the licensing authority will expect to see evidence of a criminal record check from the country/countries covering the period before a licence application can be made.

#### **4. Appeals**

- 4.1 Any applicant refused a driver's licence on the grounds that the licensing authority is not satisfied he is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal [[Local Government Miscellaneous Provisions Act 1976, s 77 \(1\)](#)].
- 4.2 Any applicant refused an operator licence on the grounds that the licensing authority is not satisfied he is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal.
- 4.3 Any licensee whose licence is suspended or revoked has a right to appeal to the Magistrates' Court within 21 days of the notice of suspension or revocation.

#### **5. Powers**

- 5.1 Section 61 and Section 62 of the Local Government Miscellaneous Provisions Act 1976 allow the licensing authority to suspend, revoke or refuse to renew a licence if the application/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.
- 5.2 The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002, allows the licensing authority to take into account all convictions recorded against an applicant or the holder of a private hire vehicle or hackney carriage driver's licence, whether spent or not. Therefore the licensing authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.

5.3 In this policy the term “disqualification” refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.

## **6. Consideration of disclosed criminal history**

6.1 Under the provisions of Sections 51, 55, and 59, Local Government (Miscellaneous Provisions) Act 1976, the licensing authority is required to ensure that an applicant for the grant or renewal of a hackney carriage and/or a private hire vehicle drivers’ licence and/or private hire vehicle operators licence is a ‘fit and proper’ person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the licensing authority will look into:

- How relevant the offence(s) are to the licence being applied for
- How serious the offence(s) were
- When the offence(s) were committed
- The date of conviction
- Circumstances of the individual concerned
- Sentence imposed by the court
- The applicant’s age at the time of conviction.
- Whether they form part of a pattern of offending
- Any other character check considered reasonable (e.g. personal references)
- Any other factors that might be relevant

6.2 Existing holders of drivers’ licences are required to notify the licensing authority in writing within seven days of being arrested, receiving a driving licence endorsement, fixed penalty notice or criminal conviction (including cautions).

6.3 Applicants can discuss further what effect a caution/conviction may have on any application by contacting the licensing officer [*insert details here*] in confidence for advice.

6.4 The licensing authority conducts enhanced disclosures from the Disclosure and Barring Service (DBS) of any applicant for a driver licence. The licensing authority follows the DBS’s Code of Practice on the fair use of disclosure information. A copy is available on request.

6.5 Applicants applying for the grant or a renewal of a drivers’ licence and/or operator licence will be required to obtain an enhanced disclosure at their expense. The licensing authority abides by the DBS’s Policy on the secure

storage, handling, use, retention and disposal of disclosure information, which is available on request.

- 6.6 So that the licensing authority receives relevant information as quickly as possible in order to take appropriate and proportionate action to protect public safety, it is the licensing authority's policy to require applicants to register for the DBS's update service and to nominate the licensing authority to receive updates. Registration lasts for 1 year and costs £13 per year. Licensees are expected to provide evidence of continuous registration and nomination throughout the duration of their licence.
- 6.7 More information about the DBS can be found on their website at <https://www.gov.uk/government/organisations/disclosure-and-barring-service>.
- 6.8 The licensing authority is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the licensing authority or other licensing authorities, and information disclosed by the police.
- 6.9 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence. Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.

## **7 Serious offences involving violence**

- 7.1 Licensed drivers have close regular contact with the public. A firm line is to be taken with those who have convictions for offences involving violence. An application will normally be refused if the applicant has a conviction for an offence that involved the loss of life.
- 7.2 In other cases anyone of a violent disposition will normally be refused to be licensed until at least 3 years free of such conviction. However, given the range of the offences that involve violence, consideration must be given to the nature of the conviction.
- 7.3 Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:
- Murder
  - Manslaughter
  - Manslaughter or culpable homicide while driving
  - Terrorism offences

*Insert your council logo here*

- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

7.4 A licence will not normally be granted where the applicant has a conviction for an offence of similar offence(s) which replace the below offences and the conviction is less than 10 years prior to the date of application:

- Arson
- Malicious wounding or grievous bodily harm which is racially aggravated
- Actual bodily harm which is racially aggravated
- Grievous bodily harm with intent
- Robbery
- Possession of firearm
- Riot
- Assault Police
- Common assault with racially aggravated
- Violent disorder
- Resisting arrest
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

7.5 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the below offences and the conviction is less than 5 years prior to the date of application:

- Racially-aggravated criminal damage
- Racially-aggravated offence
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

7.6 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the below offences and the conviction is less than 3 years prior to the date of application:

- Common assault
- Assault occasioning actual bodily harm
- Affray
- S5 Public Order Act 1986 offence (harassment, alarm or distress)
- S.4 Public Order Act 1986 offence (fear of provocation of violence)
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
- Obstruction
- Criminal damage
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above



7.7 A licence will not normally be granted if an applicant has more than one conviction in the last 10 years for an offence of a violent nature.

7.8 In the event of a licence being granted, a strict warning both verbally and in writing should be administered.

## **8. Possession of a weapon**

8.1 If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public.

8.2 Depending on the circumstances of the offence, an applicant should be free of conviction for 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), before a licence is granted.

## **9. Sex and indecency offences**

9.1 As licensed drivers often carry unaccompanied and vulnerable passengers, applicants with convictions for sexual offences must be closely scrutinised. Those with convictions for the more serious sexual offences will generally be refused. For other offences, applicants will be expected to show a substantial period (normally at least 5 years) free of conviction for such offences before a licence will be granted.

9.2 (a) Unless there are exceptional circumstances, an application will normally be refused where the applicant has a conviction for an offence such as:

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Sexual assault
- Indecent assault
- Exploitation of prostitution
- Trafficking for sexual exploitation
- Possession of indecent photographs, child pornography etc.
- Or **any** sex or indecency offence that was committed in the course of employment as a taxi or PHV driver
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

9.3 (b) Before an application is allowed, an applicant should be free of conviction for at least 10 years (or at least 3 years must have passed since the completion of

the sentence, whichever is longer), if he/she has a conviction for an offence such as:

- Indecent exposure
- Soliciting (kerb crawling)
- Or any similar offences (including attempted or conspiracy to commit).

9.4 In addition to the above the licensing authority will not normally grant a licence to any applicant who is currently on the Sex Offenders Register.

## **10. Dishonesty**

10.1 A licensed PHV or taxi driver is expected to be a trustworthy person. They deal with cash transactions and valuable property may be left in their vehicles. Taxi drivers are required to deposit such property with police within 24 hours. PHV drivers must pass lost property to the operator. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal or agreed fare, etc. Overseas visitors can be confused by our currency and may be vulnerable to an unscrupulous driver. For all these reasons, a serious view is taken of any conviction involving dishonesty.

10.2 In general, a minimum period of 3 years free of conviction or at least 3 years from completion of sentence (whichever is longer) should be required before granting a licence. Offences involving dishonesty include:

- theft
- burglary
- fraud
- benefit fraud
- handling or receiving stolen goods
- forgery
- conspiracy to defraud
- obtaining money or property by deception
- other deception
- taking a vehicle without consent
- and any similar offences
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

10.3 A licence will not normally be granted if an applicant has more than one conviction for a dishonesty offence.

## **11. Drugs**

- 11.1 A serious view is taken of any drug related offence. The nature and quantity of the drugs, whether for personal use or supply are issues which should be considered.
- 11.2 A licence will not normally be granted where the applicant has a conviction for an offence related to the supply of drugs and has not been free of conviction for 5 years.
- 11.3 A licence will not normally be granted where the applicant has more than one conviction for offences related to the possession of drugs and has not been free of conviction for 5 years.
- 11.4 An applicant who has an isolated conviction for an offence related to the possession of drugs (other than for supply) within the last 3-5 years may be granted a licence, but consideration should be given to the nature and quantity of the drugs.
- 11.5 If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required before the licence is granted. If the applicant was an addict then they would normally be required to show evidence of 5 years free from drug taking after detoxification treatment.
- 11.6 A licence will not normally be granted if an applicant has more than one conviction for a drugs related offence.

## **12 Driving offences involving the loss of life**

- 12.1 A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life.

Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs
- Causing death by driving: unlicensed, disqualified or uninsured drivers
  
- or any similar offences

**13 Drink driving/driving under the influence of drugs/using a mobile phone whilst driving**

13.1 As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. An isolated incident would not necessarily debar an applicant from proceeding on the restoration of his DVLA driving licence but he should be warned as to the significant risk to his licence status in the event of re-offending. Normally at least 3 years, after the restoration of the driving licence following a drink/drug drive conviction should elapse before an application will be considered. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed.

13.2 Applicants should also be aware of the serious risk posed by driving whilst using a mobile phone. There is a substantial body of research (see for instance <http://www.rospa.com/rospaweb/docs/advice-services/road-safety/drivers/mobile-phone-report.pdf>) which shows that drivers who use a mobile phone suffer physical and cognitive distraction which means they :

- are much less aware of what's happening on the road around them
- fail to see road signs
- fail to maintain proper lane position and steady speed
- are more likely to 'tailgate' the vehicle in front
- react more slowly, take longer to brake and longer to stop
- are more likely to enter unsafe gaps in traffic
- feel more stressed and frustrated.

13.3 There is evidence to show that drivers who use a mobile phone have slower reaction times than those who have consumed up to the legal alcohol limit. In light of this, an equally serious view should be taken of convictions for driving whilst using a mobile phone as for driving under the influence of drink or drugs.

13.4 A licence will not normally be granted if an applicant has more than one conviction for an offence of driving under the influence of drink or drugs or whilst using a mobile phone.

**14 Licensing offences**

14.1 Certain offences under taxi legislation such as plying for hire, overcharging and refusing to carry disabled persons would normally prevent a licence being granted or renewed until a period of 3 years has passed since .

14.2 A licence will not normally be granted if an applicant has more than one conviction for a licensing related offence.

## **15 Insurance offences**

- 15.1 A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided he/she has been free of conviction for 3 years, however strict warning should be given as to future behaviour.
- 15.2 A licence will not normally be granted if an applicant has more than one conviction for an insurance related offence.
- 15.2 An operator found guilty of aiding and abetting the driving of passengers for hire and reward whilst without insurance will normally have his operators' licence revoked immediately and be prevented from holding a licence for at least three years.

## **16 Outstanding charges or summonses**

- 16.1 If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings.
- 16.2 If the outstanding charge or summons involves a serious offence and the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on hold until proceedings are concluded or the licence may be refused.

## **17 Non-conviction information**

- 17.1 If an applicant has, on more than one occasion, been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration should be given to refusing the application.
- 17.2 In assessing the action to take, the safety of the travelling public must be the paramount concern.

## **18 Cautions**

- 18.1 Admission of guilt is required before a caution can be issued. Every case will be considered on its own merits including the details and nature of the offence.

## **19 Once a licence has been granted**

19.1 If a licence holder's conduct is such that, were they to be applying for a new licence their application would normally be refused, they should expect consideration to be given as to the suspension or revocation of their licence.

19.2 A suspension or revocation of the licence of a driver takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver. [Road Safety Act 2006, s 52, 2A&2B]

19.3 A suspension or revocation of the licence of an operator takes effect at the end of the period of 21 days beginning with the day on which notice is given to the operator.

## **20 Licences issued by other licensing authorities**

20.1 Applicants who hold a licence with one licensing authority should not automatically assume that their application will be granted by another. Each case will be decided on its own merits.

20.2 Licensees who are licensed by multiple authorities are expected to inform all such authorities of the authorities that they are licensed by and to advise each authority of any changes in this respect; and should expect those authorities to share information regarding their conduct and to take it into account as appropriate.

## **20 Summary**

22.1 To summarise, a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. As the preceding paragraphs indicate, in most cases, an applicant would be expected to remain free from conviction for 3 to 10 years, according to circumstances, before an application can be considered. However, there may be occasions when an application can be allowed before 3 years free from conviction have elapsed.

22.2 Any person who has committed an offence and has to wait before an application is positively considered is more likely to value their licence and act accordingly.

22.3 While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an

isolated minor conviction. Obviously some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

## Annex A – Motoring offences and penalty points

The following is a guide to the number of penalty points a court may impose, it does not reflect the fact that some offences may incur a disqualification. These codes are recorded from information supplied by the courts.

Code	Offence	Penalty Points
<b>Accident Offences</b>		
AC10	Failing to stop after an accident	5-10
AC20	Failing to give particulars or to report an accident within 24 hours	5-10
AC30	Undefined accident offences	4-9
<b>Disqualified Driver</b>		
BA10	Driving whilst disqualified by order of court	6
BA30	Attempting to driver while disqualified by order of court	6
<b>Careless Driving</b>		
CD10	Driving without due care and attention	3-9
CD20	Driving without reasonable consideration for other road users	3-9
CD30	Driving without due care and attention or without reasonable consideration for other road users	3-9
CD40	Causing death through careless driving when unfit through drink	3-11
CD50	Causing death by careless driving when unfit through drugs	3-11
CD60	Causing death by careless driving with alcohol level above the limit	3-11
CD70	Causing death by careless driving then failing to supply a specimen for analysis	3-11
CD71	Causing death by careless driving then failing to supply A specimen for drug analysis	3-11
CD80	Causing death by careless, or inconsiderate, driving	3-11
CD90	Causing death by driving: unlicensed, disqualified or Uninsured drivers	3-11
<b>Construction &amp; Use Of Offences</b>		
CU10	Using a vehicle with defective brakes	3
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicles or using a vehicle with parts	3



	or accessories (excluding brakes, steering or tyres) in a dangerous condition	
CU30	Using a vehicle with defective tyre(s)	3
CU40	Using a vehicle with defective steering	3
CU50	Causing or likely to cause danger by reason of load or passengers	3
C80	Using a mobile phone while driving a vehicle	3
<b>Dangerous Driving</b>		
DD40	Dangerous Driving	3-11
DD60	Manslaughter or culpable homicide while driving a vehicle	3-11
DD90	Furious Driving	3-9
<b>Drink or Drugs</b>		
DR10	Driving or attempting to drive with alcohol level above limit	3-11
DR20	Driving or attempting to drive while unfit through drink	3-11
DR30	Driving or attempting to drive then failing to supply a specimen for analysis	3-11
DR40	In charge of a vehicle while alcohol level above limit	10
DR50	In charge of vehicle while unfit through drink	10
DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive	10
DR61	Failure to supply a specimen for drug analysis in circumstances other than driving or attempting to drive	10
DR70	Failing to provide specimen for breath test	4
DR80	Driving or attempting to drive when unfit through drugs	3-11
DR90	In charge of a vehicle when unfit though drugs	3-11
<b>Insurance Offences</b>		
IN10	Using a vehicle uninsured against third party risks	6-8
<b>Licence Offences</b>		
LC20	Driving otherwise than in accordance with the licence	3-6
LC30	Driving after making a false declaration about fitness applying for a licence	3-6
LC40	Driving a vehicle having failed to notify a disability	3-6
LC50	Driving after a licence has been revoked or refused on medical ground	3-6
<b>Miscellaneous Offences</b>		
MS10	Leaving a vehicle in a dangerous position	3
MS20	Unlawful pillion riding	3
MS30	Play street offences	2
MS50	Motor racing on the highway	3-11
MS60	Offences not covered by other codes	As Appropriate



MS70	Driving with uncorrected defective eyesight	3
MS80	Refusing to submit to an eyesight test	3
MS90	Failure to give information as to identity of driver etc.	3
<b>Motorway Offences</b>		
MW10	Contravention of Special Roads Regulations (excluding speed limits)	3
<b>Pedestrian Crossings</b>		
PC10	Undefined Contravention of Pedestrian Crossing Regulation	3
PC20	Contravention of Pedestrian Crossing Regulations with moving vehicle	3
PC30	Contravention of Pedestrian Crossing Regulations with stationary vehicle	3
<b>Speed Limits</b>		
SP10	Exceeding goods vehicle speed limits	3-6
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)	3-6
SP30	Exceeding statutory speed limit on a public road	3-6
SP40	Exceeding passenger vehicle speed limit	3-6
SP50	Exceeding speed limit on a motorway	3-6
<b>Traffic Directions And Signs</b>		
TS10	Failing to comply with traffic light signals	3
TS20	Failing to comply with double white lines	3
TS30	Failing to comply with 'Stop' sign	3
TS40	Failing to comply with direction of a constable/warden	3
TS50	Failing to comply with a traffic sign (excluding stop signs, traffic signs or double white lines)	3
TS60	Failing to comply with a school crossing patrol sign	3
TS70	Undefined failure to comply with a traffic direction sign	3
<b>Special Code</b>		
TT99	To signify a disqualification under totting-up procedure. If the total of penalty points reaches 12 or more within 3 Years, the driver is liable to be disqualified	
<b>Theft or Unauthorised Taking</b>		
UT50	Aggravated taking of a vehicle	3-11

### **Aiding, abetting, counseling or procuring**

Offences as coded, but with 0 changed to 2 e.g. LC10 becomes LC12.

### **Causing or permitting**

Offences as coded, but with 0 changed to 4 e.g. LC10 becomes LC14.

### **Inciting**

Offences as coded, but with the end 0 changed to 6 e.g. DD40 becomes DD46.

### **Non-endorsable offences**

Some offences are non-endorsable. A non-endorsable offence is an offence which courts do not endorse onto paper counterpart. No penalty points are attributed to these offences but they carry a period of disqualification. At the end of the disqualification (over 56 days) the driver will have to apply for a renewal licence together with the appropriate fee. Any queries about offences and endorsements should be directed to the convicting court.

### **Period of time**

Periods of time are signified as follows: D=Days, M=Months, Y=Years

Endorsements remain on a counterpart licence for the following periods of time:

Endorsements must remain on a licence for 11 years from date of conviction if the offence is:

- Drinking/drugs and driving (shown on the licence as DR10, DR20, DR20 and DR80).
- Causing death by careless driving whilst under the influence of drink/drugs (shown on the licence as CD40, CD50 and CD 60).
- Causing death buy careless driving, then failing to provide a specimen for analysis (shown on the licence as CD70).

Or 4 years from the date of conviction if the offence is as listed below:

- Reckless/dangerous driving (shown on the licence as DD40, DD60 and DD80).
- Offences resulting in disqualification.
- Disqualified from holding a full licence until a driving test has been passed.

Or 4 years from the date of offence in all other cases.

Source [www.direct.gov.uk](http://www.direct.gov.uk)

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**TO: LICENSING AND SAFETY COMMITTEE  
11 JUNE 2015**

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**FEES FOR LICENSING OF PRIVATE HIRE VEHICLE OPERATORS  
Chief Officer: Environment and Public Protection**

**1 PURPOSE OF REPORT**

- 1.1 The purpose of this report is to bring to the attention of the Committee forthcoming amendments to the licensing of operators of private hire vehicles, and to seek approval for a new set of fees which will be required as a result of these changes.

**2 RECOMMENDATIONS**

- 2.1 **That the Committee agrees that the proposed charges for five year licences for private hire vehicle operators as attached at Annex A are:**

- i) **advertised; and**
- ii) **if no objections are received, implemented for any licences commencing from 1 October 2015; or**
- iii) **if objections are received they be considered at the next Committee meeting on the 5 October 2015.**

**3 REASONS FOR RECOMMENDATION(S)**

- 3.1 The recommendation recognises the forthcoming requirement for the Council to be in a position to issue private hire vehicle operator licences for a duration of five years.
- 3.2 Fees charged for the licensing of private hire vehicle operators are required by Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 to be advertised and any objections received to be brought back to this Committee for consideration. It is recommended that in the event of objections being received they be considered at the next Committee meeting. Otherwise the fee shall come into force with effect from 1 October 2015.

**4 ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 Members may choose to vary the proposed fees prior to the consultation. When setting the level of fees for the licensing regime, the Council may cover its costs but must not make a profit. Officers have set these fees with this in mind.

**5 SUPPORTING INFORMATION**

- 5.1 The Deregulation Act 2015 shall amend the Local Government (Miscellaneous Provisions) Act 1976 with effect from 1 October 2015 to make the default driver licence duration 3 years, and default operator licence duration 5 years.
- 5.2 The Council already offers the option of a 3-year licence to applicants for driver and operator licences. So the only change required to be made prior to 1 October 2015 is to introduce a fee for the 5 year operator licence.

- 5.3 The Council shall have discretion to issue licences for periods shorter than 3 years (for drivers) and 5 years (for operators) if it deems it appropriate in the circumstances. It is proposed that the 1 and 3 year options remain available to Operators.
- 5.4 One additional change brought about with immediate effect from 1 April 2015 was to abolish the rule that a licensed operator could only sub-contract bookings to another operator licensed by the same district.

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

### Borough Solicitor

- 6.1 The legal implications are identified within the report.

### Borough Treasurer

- 6.2 The financial implications are identified within the 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 There are legal provisions requiring consultation by notice and in a local newspaper and these will be conducted.

### Method of Consultation

- 7.2 As above.

### Representations Received

- 7.3 No consultation process undertaken at the time of writing the report.

### Background Papers

None

### Contact for further information

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

## BRACKNELL FOREST BOROUGH COUNCIL

**Local Government (Miscellaneous Provisions) Act 1976  
Section 70 - Fees for Licensing of Private Hire Vehicle Operators**

Current licence fees are as follows:

Private Hire Operator:	1 year licence	3 year licence
1 vehicle:	£172	£412
2-5 vehicles:	£298	£724
6-10 vehicles:	£500	£1200
11-15 vehicles:	£692	£1663
16-20 vehicles:	£938	£2251
More than 20 vehicles:	£1130	£2711

**Proposed new licence fees are as follows:**

Private Hire Operator:	5 year licence
1 vehicle:	£652
2-5 vehicles:	£1150
6-10 vehicles:	£1900
11-15 vehicles:	£2634
16-20 vehicles:	£3564
More than 20 vehicles:	£4292

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**TO: LICENSING AND SAFETY COMMITTEE**  
**11 JUNE 2015**

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**COUNCILLOR HANDBOOK**  
**Chief Officer: Environment and Public Protection**

**1 INTRODUCTION**

- 1.1 This report brings to the attention of Members the “Taxi & Private Hire Vehicles Licensing” Councillor Handbook issued by the Local Government Association in March 2015. A copy is attached to the report as Annex A

**2 SUPPORTING INFORMATION**

- 2.1 The legal area of the Taxi & Private Hire Vehicles Licensing can be challenging even for those of us who have dealt with it for a number of years. The existing licensing system is outdated and in need of urgent reform to meet the demands placed upon the services today. Much lobbying is going on and whilst there have been some minor tweaks major reform has so far not been implemented.
- 2.2 This handbook attached as Annex A has been developed to assist members understand the key issues concerning Taxi & Private Hire Vehicles Licensing and presents some tools that have been developed to assist effective regulation within the area.
- 2.3 On page 37 of the document Members are asked to gauge the effectiveness of thier Local Authority in providing a competent Licensing service by seeking answers to twelve questions. To assist you officers have drawn up the following responses to those questions.

**3 QUESTIONS AND RESPONSES**

- Q1. *Are the needs and safety of passengers placed at the centre of your licensing system?*
- A1. Yes the Council has agreed a number of conditions that are applied to licences for the sole purpose of providing a safe environment for customers. In addition officers are required to validate on going compliance by checks on drivers and their vehicles and respond to complaints from the travelling public. Where non compliance is found an enforcement process has been agreed leading to warning, suspension, revocation of licence and ultimately prosecution. The role of the Licensing team is to ensure that journeys carried out in licensed vehicles are done so safely and in comfort; that the policy and guidance set by the Committee is followed by the licensed trade.
- Q2. *Are drivers assessed against agreed and appropriate standards to ensure they are ‘fit and proper’ and entitled to hold a licence? Many Councils require applicants to undertake group 2 medical checks, enhanced Disclosure and Barring Service (DBS) checks and local knowledge tests before they are licensed to carry the public.*
- A2. Drivers who wish to be licensed within our district undergo thorough checks to ensure that they meet the requirements to be considered ‘fit and proper’. In addition to the medical, DBS and knowledge tests mentioned above, our drivers are subject to additional checks such as an enhanced practical driving test designed for licensed

drivers and an emergency first aid course. This gives us as much information as is reasonably possible to ensure that we can make a robust decision.

Once licensed, drivers are required to notify us if there has been any change in their circumstances, such as a medical issue or criminal conviction/caution. We also investigate complaints against drivers, vehicles and operators to ensure that all those who are licensed behave in the expected manner.

At regular intervals drivers are required to repeat the medical and DBS checks, and where there is cause for concern, drivers may be requested to repeat the enhanced practical driving test.

Q3. *Are your drivers provided with training on disability awareness, spotting child sexual exploitation and other locally relevant issues?*

A3. As part of the guidance document given to all drivers and applicants, a section is devoted to advice for dealing with people who have a disability. For example, how the needs of someone with a visual or hearing impairment might be different and also how best to assist passengers who have a mobility impairment.

Additionally, as part of the practical driving test, drivers who will be driving wheelchair accessible vehicles are required to undertake a 'wheelchair exercise' as part of the enhanced practical driving test, where they must demonstrate how to safely load and unload a wheelchair as well as how to safely secure it within their vehicle.

Q4. *Does your Council have a taxi and PHV licensing policy document, which has been subject to regular review and has regard to the Department for Transport's Best Practice Guidance (last issued March 2010) and has been consulted on with the trade and user groups?*

A4. We do have a guidance booklet containing licence conditions and information relevant to licensees and applicants. This booklet is available to download from the licensing section of our website and is also supplied to applicants and re-issued to licence holders in the event of any amendments. This booklet contains all of the essential information that applicants and licence holders require, including guidelines for the application process as well as details of our enforcement policy and other rules and procedures.

This document is reviewed on a regular basis, usually each year by the Committee. As part of this review, licensees are consulted and invited to make comments which will then be taken into consideration before the document is finalised.

Q5. *Do your taxi licensing officers have a regular dialogue with neighbouring Councils, with a view to adopting consistent standards, developing a common approach and to share relevant information?*

A5. Licensed vehicles are not restrained to authority borders and therefore it is essential that we work with our neighbours. Officers frequently discuss matters with colleagues from neighbouring authorities, with regular (once every two months) liaison meetings as well as ongoing discussion as is required to deal with individual matters. This ensures that specific incidents can be dealt with as well as the discussion of matters which effect licensing on a wider scale.

Every local authority has power to set its own policy. The above mentioned liaison meetings have a clear aim to share intelligence and develop common practices but

as each authority has its own policy, there will sometimes be differences of opinion on what constitutes 'fit and proper'.

- Q6. *Do you have sufficient information and understanding to challenge or defend your Council's taxi and PHV licensing activity in the context of an overview and scrutiny committee?*
- A6. The Licensing and Safety Committee have a pivotal role in the provision of the licensing function. They set policy and the conditions which apply to the licensing function, receive reports from officers on changes in legislation and charges, agree priorities and work plans and Members acting as a Licensing Panel also make decisions upon the granting, suspension or revocation of individual licences.
- Q7. *Does your Council have a multi-agency enforcement programme with the police, DVSA and neighbouring Councils? Such operations help ensure the public remain safe.*
- A7. We regularly (at least once every two months) conduct multi-agency enforcement exercises both within our district and further afield, such as at Heathrow Airport. We work closely with the Thames Valley Police Roads Policing unit during enforcement checks and at other times as and when required. Licensing Officers do not have the authority to 'pull over' licensed vehicles so the Police can help in this regard, and also they are able to carry out real time checks on DVLA licences, MOTs and insurance details.
- Q8. *Does your Council have adequate numbers of accessible taxis – to ensure people who are vulnerable in society such as disabled users can utilise the service?*
- A8. All of the Hackney Carriage vehicles licensed within our district are wheelchair accessible. Our private hire fleet is mixed with some 'standard' vehicles and some which are wheelchair accessible. This provides sufficient availability of accessible vehicles both for advanced hire and hailing on the street.
- Drivers are also not permitted to refuse jobs on the grounds that the passenger is disabled, a wheelchair user or uses an assistance dog (unless they are exempt on medical grounds).
- Q9. *Does your Council have effective consultation methods with taxi and PHV representatives and taxi users? Many Councils have taxi liaison forums which meet on a regular basis.*
- A9. When policies are due for review, the trade, as well as any other interested party, are able to put forward any comments that they wish to be taken into consideration. These comments are then examined and adopted into policy where appropriate.
- If any specific issues are raised by the trade or taxi users then we readily engage with the enquirer to resolve matters.
- Q10. *Are vehicles subject to agreed and routine stringent testing to ensure they are mechanically safe and suitable to transport the public?*
- A10. All vehicles licensed by this authority undertake regular mechanical testing by a suitable garage, authorised by the Council for this purpose. This inspection consists of both mechanical checks to the standard of an MOT, and checks of the interior and exterior of the vehicle to ensure that it meets the Council's comfort and appearance

## Unrestricted

standards. For vehicles under 5 years of age these checks take place annually, for vehicles over 5 years of age they take place every six months.

Q11. *Are your licensing fees and charges sufficient to provide the resources for an efficient licensing service but which does not create a surplus? If there is a surplus, is this returned through a reduction in future fees?*

A11. Fees are set at a level to ensure cost recovery as much as possible. The Council must not make a profit in the provision of the licensing regime, and if there are any surpluses or deficits from fees levied in previous years these must be taken into account when setting any new fees. Officers can confirm that overall the Licensing service is running at a deficit and there are no surpluses to take into account.

Q12. *Does your Council license stretched limousines under eight passenger seats? Many vehicles are operating unlicensed and unchecked as some Councils refuse to license such vehicles.*

A12. Stretched limousines are suitable for licensing as private hire vehicles, on the assumption that they meet all of the usual vehicle requirements. At present there not any vehicles of this type licensed within the district but we have previously licensed such vehicles.

### Contact for further information

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# Taxi and PHV Licensing

Councillors' Handbook  
(England and Wales)



# Foreword

Taxis and Private Hire Vehicles (PHVs) are vital to our communities; whether it's the iconic black cab in our cities or the flexible minicab in a rural district. As elected members, we are responsible for ensuring the public travel safely and receive a good level of service, and that our systems attract good, reputable drivers.

Our critical responsibilities in licensing these drivers and vehicles have been highlighted by recent examples of licensed vehicle drivers and or operators being involved in the sexual exploitation of children. Taxis are regularly used to transport children during the school run. Elderly and disabled users also rely heavily on the door-to-door service taxis and PHVs provide, as it is often the only way for many residents to access local services. Clearly, drivers must therefore command the highest level of confidence before they can be entrusted with this responsibility. It is essential that we take seriously our responsibility to determine whether someone is a 'fit and proper' person to hold a licence.

There are economic benefits too in enabling visitors to move quickly and safely through your area. Taxis and PHVs have a particularly important role in the night-time economy, ensuring the public return home safely, and can be helpful in ensuring that people disperse quickly and peacefully after events.

Unfortunately, the existing licensing system is outdated and needs urgent reform. One of the main pieces of legislation dates from 1847, which means it predates even the earliest motor vehicles, let alone online and mobile booking apps. The LGA is lobbying for a Taxi and PHV Licensing Reform Bill which will modernise the governance system for taxis and PHVs and better protect passengers from the many and varied risks which now exist. Until then, it is incumbent on us to do the best we can with the tools at our disposal.

We have developed this handbook to help you use these tools and understand some of the key issues concerning taxi and PHV licensing. It is intended to be used as a starting point to explain some of the difficulties that can arise in this complex area of business regulation, but of course is not a replacement for training provided by your own authority.

We hope you find it useful.



**Councillor Tony Page**

LGA Licensing Champion, Safer and Stronger Communities Board





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# The regulatory framework for taxis and PHVs – an overview

## Terminology

Taxis are referred to in legislation, regulation and common language as ‘hackney carriages’, ‘black cabs’ and ‘cabs’. The term ‘taxi’ is used throughout this handbook and refers to all such vehicles.

Private hire vehicles (PHVs) include a range of vehicles such as minicabs, executive cars, limousines and chauffeur services. The term ‘PHV’ is used throughout this handbook to refer to all such vehicles.

Councils are only responsible for the licensing of vehicles which carry up to a maximum of eight passengers. Vehicles with a seating capacity of more than eight passenger seats, which can include some stretch limousines, are licensed by the Traffic Commissioners, who are appointed by the Transport Secretary.

## Legislation

Taxi and Private Hire Vehicle (PHV) legislation is primarily concentrated in the Town Police Clauses Act 1847 (the 1847 Act) and the Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act). The legislation provides a broad framework for the licensing of drivers, vehicles and operators but the detail of how this is done, including standards and conditions, is the responsibility of individual councils. There are a number of other Acts which also have an impact; for example the Equalities Act 2010, which enables regulations to improve disabled access to taxis.

This mix of legislation is widely regarded as outdated and in 2014 the Law Commission published the results of a three year study into consolidating and updating the laws governing both taxis and PHVs into a single piece of legislation.<sup>1</sup> The Government has yet to respond to the report, although two clauses were brought forward early in the Deregulation Bill 2015<sup>2</sup>. A third clause, permitting anyone to drive a licensed vehicle when it was ‘off-duty’ was removed after lobbying from the LGA and other stakeholders.

The LGA, in consultation with our member councils, does not fully agree with all the Law Commission’s proposals, but feel that it does provide a sound basis for the reform that is very urgently needed. The LGA will therefore be lobbying for a Taxi and PHV Licensing Reform Bill to be brought forward in the next Parliament.

<sup>1</sup> The full report can be found on the Law Commission’s website: <http://lawcommission.justice.gov.uk/areas/taxi-and-private-hire-services.htm>

<sup>2</sup> This Bill had not received Royal Assent at the time of writing, but is expected to successfully complete its passage through Parliament in early 2015. It will enter legislation as the Deregulation Act 2015, and references to it in the Handbook should be read as such once that has happened.

### Facts and figures:

In England and Wales, there were around 78,000 taxis and 153,000 PHVs licensed as at the end of March 2013.

There are an estimated 27,000 licensed taxi and PHV drivers in England and Wales.

Taxis and PHVs together account for just over one per cent of all trip stages per person per year in Great Britain. This is about 600 million trip stages or around 3 million miles a year.

An estimated 58 per cent of all taxis are wheelchair accessible in England and Wales.

## Differences between taxis and PHVs

One of the key differences between the vehicles is that a PHV, unlike a taxi, cannot ply for hire, which means that all journeys must be pre-booked in advance through a licensed operator. It is an offence for PHVs to pick up passengers from any location unless pre-booked. Local councils can, if they wish, also regulate the fares charged by taxis, whereas there is no power to do so with PHVs.

	Taxi	Private Hire
Ply for hire	✓	x
Pre booked	✓	✓
Operating from a rank	✓	x
Fare meter required	✓	x
Fare tariff set by council	✓	x
Number of vehicles may be restricted by councils	✓	x
Taxis require two types of licence:		Hackney carriage proprietors (vehicle) licence Hackney carriage drivers licence
The provision of a private hire service requires three types of licence:		Private hire operators licence Private vehicle licence Private hire drivers licence

## Council role in taxi and PHV licensing in England and Wales

Taxi and PHV licensing in England and Wales is undertaken by district and unitary councils ('licensing authorities'), which have the responsibility for ensuring the public travel in safe, well maintained vehicles driven by competent drivers, as well as providing a fair and reasonable service for the taxi and PHV trade.

In London, taxi and PHV licensing is the responsibility of Transport for London and delivered by London Taxi and Private Hire, which is accountable to the Mayor of London and responsible for delivering the Mayor's Transport Strategy. Local councils in London have no direct role in licensing taxis and PHVs.

To deliver their responsibilities, councils' core functions in taxi and PHV licensing can be summarised as:

- setting the local framework, which can include fares, vehicles standards or limits on vehicle numbers
- considering applications and issuing, reviewing or revoking licences
- undertaking inspection and enforcement activities.

Taxi and private hire licensing may be undertaken within a single department but usually sits within one of the council's regulatory services such as environmental health or legal services. It is often also combined with other licensing functions.

In providing the licensing function, the council, under the provisions of the 1976 Act, is entitled to levy fees to recover the reasonable cost associated with:

- the administration and issue of licences
- the inspection of vehicles for the purposes of determining whether any such licence should be granted or renewed
- the provision of hackney carriage stands and administrative or other costs in connection with the control and supervision of hackney carriage and private hire vehicles.

With the exception of drivers' licences, the council is required to consult upon the fees it intends to levy through a public notice procedure. In determining the fees to be charged it would be reasonable to do so with a view to achieving full cost recovery.

Licensing income from these schemes must therefore be 'ring-fenced' in that licensing fees and charges cannot be spent on other areas of council activity – even other areas of licensing business. It is important to ensure that applicants and licensees receive value for money. As a councillor you should ensure that your authority's budgets can stand up to scrutiny by the District Auditor and under the Freedom of Information Act, which has been increasingly used in recent years by licensees and trade associations.

There are no statutory timescales or performance measures for taxi/PHV licensing, unlike some other licensing regimes. However many councils use internal targets to measure the service being provided to customers. A periodic review of the licensing service's processes and procedures can help to improve this. One council, for instance, subjected its licensing procedures to a LEAN business review and succeeded in reducing the time taken to process vehicle licences from 45 days to just one day.

## Department for Transport's role (DfT)

DfT's role is that of regulatory ownership and maintenance of the regulatory framework for taxis and private hire vehicles. The DfT provides non-statutory guidance to local councils as to how to discharge their duties under the regulatory framework. The Department collects and publishes statistics on a regular basis and produces guidance to assist local councils in carrying out their taxi and PHV licensing functions. The guidance is considered to be 'best practice' and addresses a number of issues where inconsistency of approach exists in taxi and private hire licensing in England and Wales.

## Strengths and weaknesses of the current system

Councils have a wide-range of powers that can be used to regulate taxis and PHVs, protecting the public and supporting local economies; but there are also some anomalies within the existing system.

Local councils have the power to attach conditions to taxis, PHVs, and the licences of PHV drivers, but not the licences of taxi drivers. They can also influence the local context in which vehicles operate, and a range of licensing policies have been developed to do this by councils, but they vary from relatively relaxed to very strict regimes. Many councils have also adopted local bylaws under the 1976 Act that regulate driver conduct, which can helpfully provide some of the otherwise missing influence over the conduct of taxi drivers.

However, over time this has created differing standards with little co-ordination within regions or nationally. The result is varying standards of service for passengers, particularly disabled users; confusion for taxi and PHV businesses; some types of vehicles operating unregulated; and taxis working in areas in which they are not licensed to do so. This is far from ideal.

Nonetheless, taken together these policies and bylaws offer a reasonable standard of influence when it comes to assessing applications to the licensing committee. The situation for enforcement activities is much less positive.

- First and foremost, councils have no ability to stop vehicles, which leaves them only able to intervene when a vehicle is stopped, and unable to do anything if it drives off – only the police may stop a vehicle.
- Secondly, a council may only take action against a vehicle or driver that it has licensed, meaning that there is absolutely nothing that a council can do if a vehicle or driver licensed elsewhere is operating in their area.

This is why the issue of cross-border hiring is perhaps the most acute problem facing many councils today. In one recent example, a driver applied to a council for a licence only to be refused after the police presented concerns to the licensing committee; the driver then applied to the neighbouring council, which was given the same information by the police but chose to licence the driver. The driver now operates in the first council's area and there is nothing they can do to stop it.

**This poses a risk to communities everywhere, as well as the reputation of local government as a whole. Every council should be mindful of its opportunities to protect communities outside of its immediate responsibility.**

The best councils will meet or communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared and that there is a consistency and robustness in decision-making. By working together, local government can make sure that this vital service is safe, respected, and delivering for local communities.

The following sections of this handbook set out guidance on how councils can deliver the best possible licensing regulation.

# Role of councillors

## Councillors and the council's regulatory/licensing committee

Councils will usually operate with a regulatory/licensing committee which may be made up of non-executive/cabinet councillors, and sub-committees made up of councillors of the parent committee. Apart from setting taxi fares and ranks, taxi/PHV licensing is a 'council' and not an 'executive' function.

The role of the parent committee is to consider and propose policy, including setting the overall approach of the council, conditions and standards for vehicles and drivers.

There is no requirement to create a single licensing statement or policy for taxi and PHV licensing in the way that there is for the Licensing Act 2003 and Gambling Act 2005. However, the LGA strongly encourages licensing authorities to create a unified policy that brings together all their procedures in one place; this could include policies on convictions, determining the 'fit and proper' person test, licence conditions, and vehicle standards.

Creating a single, unified policy that is reviewed on a regular basis will provide clarity for drivers and operators, as well as strengthening the council's position if there is a challenge against a decision in court.

For the purposes of simplicity, the rest of this document will refer to a single licensing statement, even though a licensing authority may choose to retain separate policy documents.

It is important to take account of the views of the trade and of customers, as well as other stakeholders, when establishing policy in the same way that other areas of council business are developed.

Decision-making in respect of individual cases, whether applications for licences or where matters are brought to the attention of the council following the grant of a licence (for example breach of conditions, convictions, driving endorsements etc), are often made by a regulatory/licensing sub-committee. This sits as a quasi-judicial body and therefore must follow the rules of natural justice – anyone affected by a decision has a right to be heard and no one should be a judge in his own cause. All decisions should be made without 'fear or favour', however difficult they may be.

Sub-committees have a range of options available to them including:

- in the case of licence applications, to grant a licence, with or without conditions
- in the case of licence applications, to refuse a licence
- in the case of existing licences where matters are brought to the council's attention, to
  - do nothing

- suspend a licence
- introduce conditions on a PHV driver's licence
- revoke a licence.

Suspension can be particularly helpful in improving standards or addressing complaints. For instance, a licence can be suspended until such time as the driver can undergo additional driver training or receive other improvement support. However, you cannot suspend a licence as an interim measure pending a final decision on a court case – it must always be used as a final decision.

Councils may attach conditions to licences – either standard ones that apply to every licence or specific ones bespoke for individual applicants. In either case the conditions must not:

- exceed the council's powers set out in the controlling legislation ('ultra vires')
- be unreasonable or disproportionate
- be beyond the applicant's powers to comply with
- be for an ulterior motive and
- must be clearly stated in order that they can be properly understood to be complied with and enforced.

**Decision-making may also be delegated to officers, and is an important tool where a serious offence is committed and immediate revocation is needed. All councils should consider having a delegation system in place for this contingency; the chief executive or deputy is often nominated for this role.**

Both applicants seeking new licences and the holders of existing licences will have the right of appeal to the local magistrates' or crown court if they are aggrieved by the decision of the council. In all cases where a licence is suspended or revoked, reasons must be given for that decision. Drivers must reach the standard of a 'fit and proper' person with each case being dealt with on its own merits, normally with reference to an objective policy published by the council. The overriding consideration is the safety of the public which may, in some cases, outweigh the right of the applicant to hold or continue to hold a licence.

## Training of councillors

**No councillor should be permitted to sit on a committee or sub-committee without having been formally trained. As a minimum, training should cover licensing procedures, natural justice, understanding the risks of child sexual exploitation and disability awareness as well as any additional issues deemed locally appropriate.**

It is important that training does NOT simply relate to procedures, but also covers the making of difficult and potentially controversial decisions, and the use of case study material can be helpful to illustrate this.

All training should be formally recorded by the council and require a signature from the councillor.

In addition to in-house training, there are a number of independent training providers, including the professional bodies – the National Association of Enforcement and Licensing Officers (NALEO), and the Institute of Licensing (IoL). The LGA has also made available a free online module on regulatory services for all councillors to use - <http://lga.learningpool.com/>.

## Appearance of bias

While third party lobbying of elected members is legitimate and certain members may make representations to the licensing committee on behalf of 'interested parties', it is crucial for the licensing authority and its committee to ensure that there is neither actual nor an appearance of bias in its decision-making. It should also be remembered that concerns about political lobbying were the basis of the concerns which lead to the first Nolan Committee on Standards in Public Life.

Section 25 of the Localism Act 2011 does not prevent members from publicly expressing a view about an issue or giving the appearance of having a closed mind towards an issue on which they are to adjudicate. However it is recommended that to avoid an appearance of bias the following advice should be observed:

- No member sitting on the licensing sub-committee can represent one of the interested parties or the applicant. If s/he wishes to do so s/he must excuse him/herself from membership of the sub-committee which is considering the application. Case law has also established they should not be in the room for the hearing once an interest has been declared.
- If a member who sits on the licensing sub-committee is approached by persons wishing to lobby him/her as regards the licence application then that member must politely explain that they cannot discuss the matter and refer the lobbyist to his/her ward member or the licensing officer who can explain the process of decision making. If the member who sits on the licensing sub-committee wishes to represent them then s/he will need to excuse him/herself from the licensing sub-committee.
- Members who are part of the licensing sub-committee must avoid expressing personal opinions prior to licensing sub-committee decision. To do so will indicate that the member has made up his/her mind before hearing all the evidence and that their decision may not be based upon the licensing objectives nor the statement of licensing policy.
- Political group meetings should never be used to decide how any members on the licensing sub-committee should vote. The view of the Ombudsman is that using political whips in this manner may well amount to findings of maladministration. It may be advisable that the chair of the licensing sub-committee should state, during proceedings, that no member of the sub-committee is bound by any party whip.
- Councillors must not be members of the licensing sub-committee if they are involved in campaigning on the particular application.
- Other members (ie those who do not sit on the licensing sub-committee) need to be careful when discussing issues relating to matters which may come before the licensing sub-committee members as this can easily be viewed as bias / pressure and may well open that sub-committee member to accusations of such. While a full prohibition upon discussing such issues with committee members by other members may be impractical and undemocratic, local authorities are advised to produce local guidance for members on how such matters can be dealt with.<sup>3</sup> Such guidance could include a definition of what is viewed as excessive e.g. attempting to obtain a commitment as to how the member might vote

<sup>3</sup> "It is undemocratic and impractical to try to prevent councillors from discussing applications with whomever they want; local democracy depends on councillors being available to people who want to speak to them. The likely outcome of a prohibition would be that lobbying would continue but in an underhand and covert way." (Nolan Committee Report into Standards in Public Life 285 p. 72)



- Members must also be aware of the need to declare any pecuniary or non-pecuniary interests in matters that may come before them, whether these relate to policy issues or to specific applications.
- Members must not pressurise licensing officers to make any particular decisions or recommendations as regards applications.
- Member behaviour is also governed by the member's code of conduct which you should have regard to, and most authorities also have a member/officer protocol which governs how members and officers should interact and the differences in their roles and responsibilities.
- Members should consult their monitoring officers for further advice where necessary.

# The ‘fit and proper’ person test<sup>4</sup>

Passengers should be at the centre of a licensing authority’s taxi licensing policies and processes, and there is no area where this is more important than in the application of the ‘fit and proper person’ test.

A licensing authority must not grant a taxi or PHV driver’s licence unless it is satisfied that the applicant is a fit and proper person to hold such a licence. This is very different to the Licensing Act 2003 or Gambling Act 2005, where the presumption is to permit a licence application.

A licensing authority is also entitled to suspend or revoke a taxi or PHV driver’s licence if there is evidence to suggest that the individual is not a fit and proper person, and specifically<sup>5</sup>:

- if he has been convicted since the grant of the licence of an offence involving dishonesty, violence or indecency
- for non-compliance with the licensing requirements of [the 1847 Act or the 1976 Act] and related legislation, or
- for any other reasonable cause.

**Properly applying the fit and proper person test is essential for ensuring a robust licensing scheme that protects safety and commands the confidence of the general public.**

On receiving an application, councils should first make use of the Home Office’s free service to check the applicant’s right to work. This ensures that applications are not heard where the applicant has no legal right to work in the UK.<sup>6</sup> Once this is established, an inquiry into an applicant’s fitness to be licensed is likely to include enquiries into his health, local knowledge and understanding of the responsibilities of a licensed driver. However, character is usually investigated first.

Most councils have adopted a formal statement of policy about relevant convictions and how this will determine whether an applicant is fit and proper. While each application must be determined on its individual merits, the statement may set out a recommended minimum period free of conviction for offences falling into broad categories to act as a guideline to licensing committees.

The statements adopted by English and Welsh councils tend to be broadly similar and are based on Government guidance issued in the early 1990s. **The LGA is recommending that all councils review their policies, and update them as required.**

<sup>4</sup> The text in this section draws heavily on an article by Ian de Prez, Solicitor Advocate for Suffolk Coastal District Council, in *Local Government Lawyer* magazine. We are grateful to Mr de Prez and *Local Government Lawyer* for their permission to reproduce the points from the article.

<sup>5</sup> S60(1)(a)(b)(c), Local Government (Miscellaneous Provisions) Act 1976

<sup>6</sup> The service can be contacted at [EvidenceandEnquiry@homeoffice.gsi.gov.uk](mailto:EvidenceandEnquiry@homeoffice.gsi.gov.uk)

## Convictions policy

It is important to set out how your sub-committee will view convictions, spent or otherwise, and ideally include it as part of your consolidated taxi licensing policy. DfT has previously issued advice on the period of time that should lapse between certain types of conviction and the issue of a licence, but the most recent Best Practice Guidance in 2010 removed references to this, so councils should feel empowered to make their own decisions. The old advice is available, but councils should treat the recommendations as minimum standards.

The LGA has produced a sample policy which is available to assist officers in drafting this crucial part of your approach to licensing taxis and PHVs. You should ensure this is not directly replicated, but use it to inform your own discussions at your committee.

In particular, **the LGA encourages councils to take a strong stance on indecency offences, such as those relating to sexual assault or rape.** While each case must be considered on its own merits, the default position should be that if an applicant has a previous conviction for these offences, a licence will not be issued.

**It is important to remember that your decisions need not, and should not, be based solely on convictions.** Licensing committees are able to take into account soft intelligence provided by the police and other partners. You are also able to take full account of the applicant's responses in the committee hearing. The evidential threshold for licensing committees is based on the balance of probabilities, and not the 'beyond reasonable doubt' standard which is the criminal standard of proof for criminal trials.

In short, if you are 51 per cent certain that the applicant is not a fit and proper person then you are able to, and should, refuse the licence. You could also take proportionate steps to further test a candidate's suitability by issuing a licence for a short period of time, such as a month, before reviewing it, and issuing it for longer and longer periods of time as the applicant proves they are a fit and proper person. However, the provisions of the Deregulation Bill 2015, which create a presumption for licences to be issued for the full three years, means this approach may only be justified in exceptional circumstances and not adopted as a routine practice.

Where you have refused a licence, or granted a licence subject to strict conditions or criteria, or for a shorter period than three years, then you must set out these reasons in writing. Applicants have a right of appeal to the magistrates' court against those decisions and it aids both applicants and the court to understand the nature of the decision being appealed against.

If licensees are obliged under their licence to inform the local authority of their arrest or conviction and they fail to do so (or where they fail to notify the police that they hold a licence), this should be viewed particularly seriously as it prevents the local authority from taking that information into account when protecting public safety. This is also a breach of condition and can be actioned by the authority on that basis.

A licensing authority can take into account any spent conviction but of course must do so in a fair and proportionate way, following the authority's policy. It is still appropriate to note the distinction between spent and unspent convictions when considering an application, and there will be many cases in which a particular spent conviction is no longer relevant. Sometimes an applicant/driver will assert that he was wrongly convicted, or only pleaded guilty to get it over with, to shield a family member or to avoid the risk of a more severe sentence. However the licensing authority should not go behind the existence of the conviction in an attempt to 're-try' the case.<sup>7</sup>

Councils have a very broad discretion when refusing to grant a licence, providing the decision is reasonable, proportionate and – ideally – in line with a published policy. If the decision departs from the policy, then the council should state the reasons for this in writing to the applicant.

A decision to revoke, suspend or refuse to renew a licence will engage the licensee's rights under the Human Rights Act 1998 (the 1998 Act) by providing a right to a fair hearing and a right to an independent and impartial appeal tribunal (in this case the magistrates' court). It may also engage the licensee's rights not be deprived of their underlying economic interests in the licence unless that can be justified in the public interest and is proportionate.

There have been a number of challenges to decisions to suspend or revoke licences on the basis that a licence is a personal piece of property, and therefore revocation infringes the driver's human rights. However, case law has established that a decision maker dealing with a currently licensed driver should not regard the licence as a piece of property under the 1998 Act.<sup>8</sup>

**When making decisions at both the application stage or in a disciplinary situation with an existing driver, the sole deciding factor should be the safety of the travelling public.**

Exceptional mitigation may be relevant to assessing the risk to the travelling public if it shows that the driver/ applicant acted out of character, so that the misdemeanour is unlikely to be repeated – but personal circumstances are not a factor to weigh in the balance against the safety of passengers.

Anecdotal evidence suggests that some authorities have been reluctant to attach much weight to non-conviction information, and in some instances have even doubted the propriety of reporting it to members. However, there is no doubt that this information can be taken into account and may sometimes be the sole basis for a refusal, a suspension or revocation.

When dealing with allegations rather than convictions and cautions, a decision maker must not start with any assumptions about them. Allegations will have been disclosed because they reasonably might be true, not because they definitely are true. It is good practice for the decision makers with the help of their legal adviser to go through the contents of an enhanced disclosure certificate with an applicant/driver and see what they say about it. If, as sometimes happens in practice, admissions are made about the facts, that provides a firm basis for a decision.

It will not be possible to give a comprehensive list of points that will be considered as part of the fit and proper person test, but each council should set out in writing, preferably as part of its licensing statement, an outline of how the council intends to approach these decisions and what factors will carry the most weight.

<sup>7</sup> Nottingham City Council v Farooq 1998 EWHC Admin 991

<sup>8</sup> Cherwell DC v Anwar [2011] EWHC 2943 (Admin)

## PHV operator responsibilities

Taxi and PHV licensing is not an area where there is much scope for self-regulation, but PHV operators do have a key role in ensuring that the drivers they employ are fit and proper persons, and are properly trained in their roles.

Your policy should therefore cover the responsibility of PHV operators for ensuring that their drivers are fit and proper persons; as part of the process of granting and monitoring an operator licence, you may wish to require operators to demonstrate what steps they are taking to ensure that their drivers are fit and proper persons, as well as appropriately trained.

This responsibility will be even more important when, and if, the Deregulation Bill receives Royal Assent and operators are able to sub-contract bookings to other providers. There are existing obligations on operators who seek to pass on a booking and the first operator will always retain overall responsibility for its fulfilment. However, there is scope for councils to enhance this responsibility by placing conditions on an operator's licence to require them to set out how they will handle sub-contracting and ensure consumer protection.

This is an area that has not yet been explored and, once the relevant legislation is passed, offers a fertile ground for those innovative councils who wish to make full use of their powers to protect their communities. We encourage councils to explore this, and to share their new practice with the Local Government Association and other licensing authorities.

## Monitoring complaints

All councils should have a robust system for recording complaints, including analysing trends across the whole system as well as complaints against individual drivers. Drivers with a high number of complaints made against them should be contacted by the council and concerns raised with the driver and operator (if appropriate). Further action must be determined by the council, which could include no further action, the offer of training, a formal review of the licence, or formal enforcement action.

The licensing committee should review the complaints procedure and records on at least a yearly basis, and always before a review of the licensing policy. The committee should also have oversight of the council's 'mystery shopping' and test purchasing checks on licensed vehicles to ensure that the council is properly carrying out its enforcement responsibilities.

## Penalty points enforcement system: Rother District Council

When taxi and PHV drivers contravene conditions of their licence the only sanctions available to members of taxi licensing committees is that of revocation or suspension. For minor infringements, such as not displaying a name badge at all times, revocation or suspension can be too harsh a punishment. Drivers who make an error in judgment on any given day, with a previous unblemished career, may face all or nothing decisions by members if they are reported to committee following a complaint from a member of the public.

Also once drivers are licensed there is limited information available to continually assess whether they are fit and proper persons, and as such for members to have a clear view of their past conduct when drivers are called to committee for hearings.

In light of this Rother District Council decided to develop a 'penalty points enforcement scheme', where drivers can carry a fixed number of points for minor matters of misconduct that would allow the driver to continue driving until such time as they either reached the level set by members, or if officers decided that the nature of the complaint against a driver was too serious to deal with under the scheme.

Rother found that on the whole the trade agreed that the process led to improvements in behaviour, especially by those drivers who tend not to take their role as licensed drivers too seriously. The trade appreciated that the scheme is transparent and clear, and removes any ambiguity about whether officers or members felt that a matter was serious, or when the driver thought it was very minor.

The penalty points enforcement scheme gives councillors a more influential role in the licensing process, and it allows drivers to understand that members make the decisions on fitness and propriety and not officers. However, it is worth noting that the accumulation of points cannot automatically lead to a sanction and that the 'fitness' or otherwise of a licensee has to be dealt with separately and in its own way.

Many other councils have introduced similar schemes and there has been a noticeable improvement in both standards of behaviour and standards of compliance.

## Scrutiny

Public scrutiny is an essential part of ensuring that government remains effective and accountable, and this is especially true of quasi-judicial systems like licensing. Scrutiny ensures that executives and committees are held accountable for their decisions, that their decision-making process is clear and accessible to the public and that there are opportunities for the public and their representatives to influence and improve public policy.

There are a number of aspects of taxi and PHV licensing that are suitable for a scrutiny investigation, ranging from a review of the policy and framework, including how it contributes to a wider transport policy, its success in delivering accessible transport for disabled users, or the handling of complaints; to more specialist subjects such as the setting of fees, provision of taxi ranks, or the age and maintenance of the fleet.

The Centre for Public Scrutiny<sup>9</sup> provides guidance on how to hold effective scrutiny, and also has a number of case studies from councils that have already held scrutiny enquiries into their taxi and PHV licensing systems.

<sup>9</sup> <http://www.cfps.org.uk/>

# Public protection and enforcement

## Partnership working

Effective partnership working between local licensing authorities, the Driver and Vehicle Standards Agency (DVSA), police, other council services such as trading standards and environmental health as well as the local trade is vital to ensuring effective taxi and PHV regulation.

It is particularly important to join up enforcement operations with the police as taxi licensing officers do not have powers to stop and search vehicles. Similarly, licensing officers may only take action against drivers and vehicles that they have licensed, which is why the issue of cross-border usage is so problematic (see below). You should ensure your council taxi licensing officers meet regularly with their local police force and develop good relationships.

As a councillor, you are well placed to shape and influence how this crucial partnership relationship between your council and other bodies works and develops. There are many areas across England and Wales where these partnerships are working well.

It is particularly important to have effective intelligence sharing protocols in place with the local police force. The police have powers to disclose information under common law, which enables them to share information about relevant investigations with licensing teams even before an arrest or conviction is made.

There has also been a formal ability to share information under the Notifiable Occupations Scheme, but this has been challenged and is no longer used by many police forces. A replacement is being developed, but in the meantime all licensing authorities should use their local relationships to continue the flow of information. Councillors should seek the support of their local police and crime commissioner if necessary.

## Sharing intelligence: Norfolk councils and Norfolk Constabulary

### Safeguarding information sharing process

#### What is the issue?

Licences are issued by the local authority for a wide variety of purposes. For example, a licence is required to drive either a licensed hackney or a private vehicle (a dual licence allows a driver to drive a hackney carriage vehicle or private hire vehicle) and must work for a licensed taxi operator. When a licence is refused, suspended or revoked by the licensing authority or there are any other concerns raised which may be considered a safeguarding issue it has been agreed that the licensing authority will notify the police for intelligence purposes.

#### Why is this necessary?

Licence holders can operate in positions of trust and it is vital that any relevant information about safeguarding issues is shared so that individuals are blocked from becoming taxi operators or holding any other kind of licence in different council areas across the county/country. Without effective information sharing, there is a real risk of unsuitable people being granted licences to operate which puts people at risk.

#### How will this work?

When a licence is refused/suspended/revoked due to a 'safeguarding' issue then licensing authorities are to complete a template and submit it the police electronically via secure email. The referral template should also be used to report any safeguarding concerns about any licence holder. The police will create an intelligence report (IR) which becomes disclosable as part of any subsequent DBS check undertaken anywhere in the country, thereby reducing the risk of unsuitable persons being granted a licence.

### What is a 'safeguarding issue'?

**Physical** – Including hitting, slapping, pushing, kicking, restraint or inappropriate sanctions

**Sexual** – Including rape and sexual assault or sexual acts to which the vulnerable person (including any young person) has not consented, could not consent or was pressured into consenting

**Psychological** – Including emotional abuse, threats of harm or abandonment, deprivation of contact, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse, isolation or withdrawal from services or supportive networks

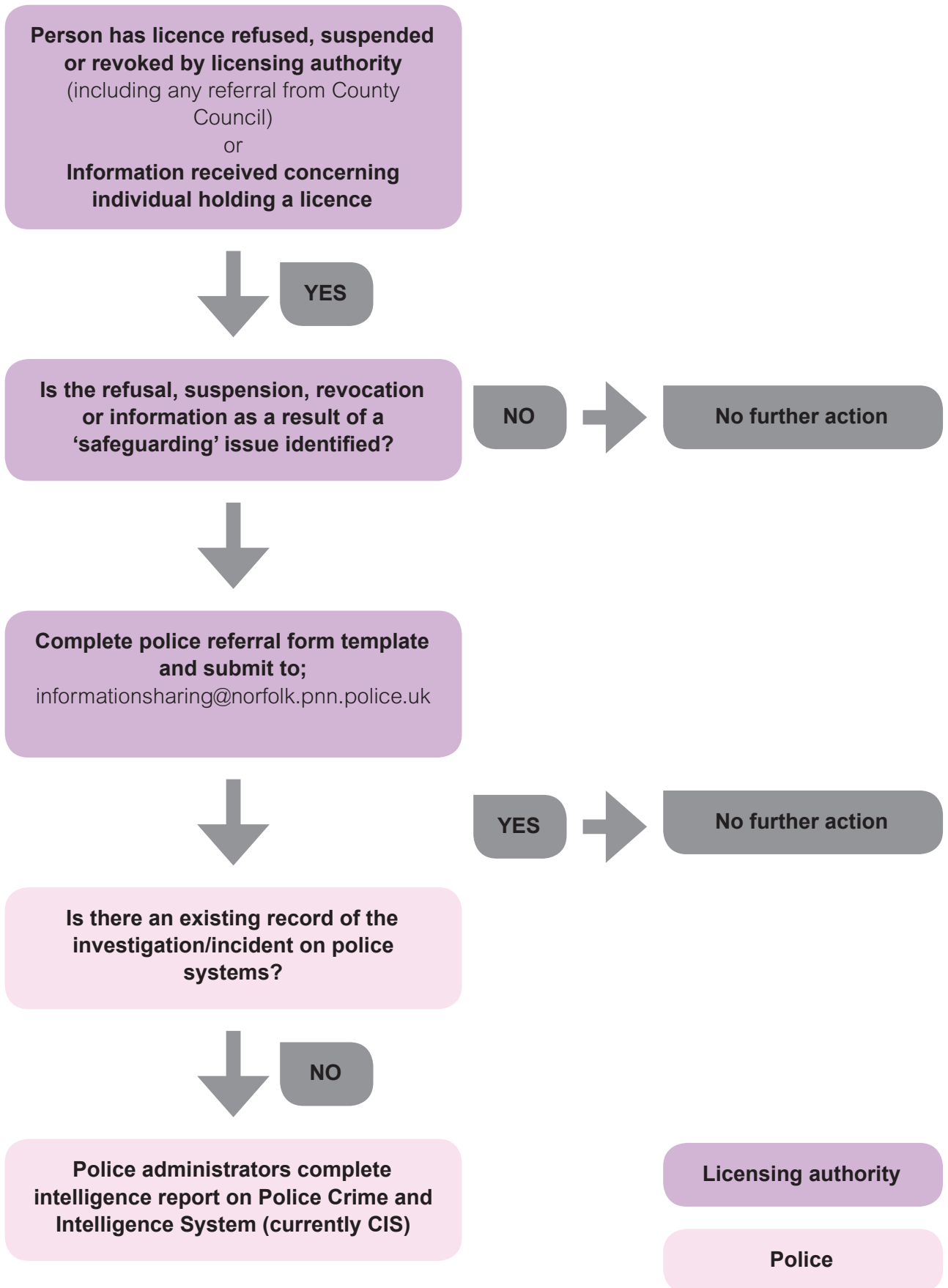
**Financial** – Including theft, fraud, exploitation, pressure in connection with wills, property or inheritance or financial transactions, the misuse or misappropriation of property, possessions or benefits

**Neglect/failure to act** – Including ignoring medical or physical care needs, failure to provide access to appropriate health care, social care, education services or misuse of medication, adequate nutrition or heating

**Discriminatory** – Including racist, sexist behaviour and harassment based on a person's ethnicity, race, culture, sexual orientation, age or disability, and other forms of harassment, slurs or similar treatment

**Institutional abuse** – This can sometimes happen in residential homes, nursing homes or hospitals when people are mistreated because of poor or inadequate care, neglect and poor practice that affects the whole of that service.





# Police Referral Form Template

(submit to [informationsharing@norfolk.pnn.police.uk](mailto:informationsharing@norfolk.pnn.police.uk))

<b>Local Authority</b>							
<b>Disclosing Officer</b>							
<b>Role</b>							
<b>Driver/Applicant/Subject</b>							
<b>Surname</b>							
<b>Forename(s)</b>							
<b>Date of Birth</b>							
<b>Home Address</b>							
<b>Telephone</b>							
<b>Type of License Application (if applicable)</b>							
<b>Vehicle Details (if known/ applicable)</b>							
*include registrtaion / make / model							
<b>Information/Intelligence</b>							
<b>Refusal</b>	Yes/No	<b>Suspension</b>	Yes/No	<b>Revocation</b>	Yes/No	<b>Information</b>	Yes/No
<b>Date of refusal / suspension / revocation / information</b>							
<b>Circumstances *</b>							
(must include any relevant time / date / location information)							
<b>Additional Information</b>							

\* Circumstances should provide sufficient summary information to identify threats and risks associated with the applicant / driver. Full records of any investigation need not be disclosed on the IR as these will be retained locally by relevant authority

### **Joint operations: Blaenau Gwent Council**

Blaenau Gwent Council's Licensing Team co-ordinated roadside checks on taxis and private hire vehicles to make sure Blaenau Gwent pupils travelled to school safely.

On the morning of the school run the Council's licensing team, officers from the Council's school transport division and technical experts from DVSA checked 16 buses and eight taxis.

The school run checks were followed up with detailed safety inspections that resulted in one notice and a number of warnings.

- One deferred prohibition notice was issued for a defect. The company was told to carry out the repairs within a time period.
- Four drivers were given advice regarding minor defects.
- Six warnings were given for not wearing seatbelts.
- Four enquiries were made by Blaenau Gwent Council's education division about school contracts operating logistics.

During the day, Gwent Police traffic officers gave out 16 fixed penalties for no seatbelts, two fixed penalties for using mobile telephones while driving and ordered repairs for a cracked windscreen.

Chair of Blaenau Gwent Council's Licensing Committee, Councillor Jim Watkins said:

"We are committed to maintaining and improving the standards of the home-to-school transport service provided by independent operators and those contracted to us. Our regular check-ups are important. We have to thank our partners in Gwent Police and the DVSA, and the operators as well, for their cooperation."

## **Managing cross border hiring**

Cross border hiring is a term to describe when a taxi is lawfully used for PHV purposes in a district outside which it has been licensed to operate. This is a problem in many areas because there are disparities in conditions on licences; a prospective driver in one council district may apply to be licensed as a driver in another district because there are lower standards in driver testing, cheaper licence fees or less rigorous/fewer pre-licence checks. The term 'cross border' is also used when a PHV in one district picks up a passenger from another district. This is currently legal, provided the driver, vehicle and operator are all licensed by the first district, although the Deregulation Bill will make it possible for an operator to sub-contract a booking to an operator licensed in another council area, if it passes into law.

This is also problematic, because when a taxi is being driven for PHV purposes in another district, the local council has no powers to intervene if the driver contravenes any condition of the licence or provides a poor service to the passenger. It is also unfair on the trade in the local area, as they may face competition from drivers who may have paid cheaper licence fees or undergone less rigorous checks elsewhere.

**As a councillor you can take some simple steps to ensure that your local authority is not having a detrimental impact on other authorities and their communities.** Ask your taxi and PHV licensing service whether they have a high enough standard of conditions (see councillor

checklist) and consider where an applicant intends to work when issuing licences. You do have the legal right to refuse to issue a licence if the applicant does not intend to work mainly in your area and should recognise that the reputational impact to your council of knowingly licensing taxis to operate elsewhere could severely limit your ability to develop partnership working with neighbouring authorities.

If you seek to include a section on this in your licensing policy, then it is important to remember that a 'hackney carriage' cannot 'work' or 'operate' as a PHV. The law simply allows them to be used for 'private hire purposes'. This may sound like semantics, but has been tested in the courts and means that you cannot use your greater power to condition PHV driver licences to regulate the driver of a hackney carriage, even though they may at times be working in the same manner as a PHV driver (ie making pre-booked journeys, rather than plying for hire).

The most notable piece of case law on cross-border hiring was between Newcastle City Council and Berwick Borough Council. Between 2006 and 2008, Berwick's licensed fleet had grown from 46 taxis to 672. Many of the fleet were not operating in Berwick but had applied there as a result of a less stringent application process and were operating in neighbouring or nearby areas.

In his judgment, the judge rejected Berwick's arguments that it is obliged by law to issue a hackney carriage licence to any applicant, so long as they and their vehicles are fit.

Commenting on the potentially 'undesirable consequences' of Berwick's stance, he said the council is having to carry out its enforcement powers from a distance and faces difficulty in keeping its licensed cabs under observation.

He said: "It seems to me that it must be desirable for an authority issuing licences to hackney carriages to be able to restrict the issuing of those licences to proprietors and drivers which are intending to ply for hire in that authority's area."

He said the intention of the licensing system is that "it should operate in such a way that the authority licensing hackney carriages is the authority for the area in which those vehicles are generally used."

The judge added: "If the hackney carriages are used in areas remote from Berwick-upon-Tweed, enforcement will be very difficult and impracticable.

"It seems to me it is very difficult to exercise proper control over hackney carriages which are never, or rarely, used in the prescribed area.

"It is also undesirable for authorities to be faced with a proliferation of hackney carriages licensed outside the area in which they are being used and therefore not subject to the same conditions and bylaws as apply to those vehicles licensed in the area."

Judge Symons said he would leave it to the judgment and common sense of the borough council to decide how to react to his ruling, that it does have a 'discretion' to refuse to licence taxis if there is no 'unmet demand' for cabs in Berwick itself.

"While I cannot at the moment conceive of it being rational to grant a licence to those who intend to operate their hackney carriages remotely from Berwick-upon-Tweed, I am not prepared to say that it is bound to be unlawful," he concluded.

Until the Law Commission's proposals extending an authorised officer's powers are enacted, the protocol<sup>10</sup> below could be used by authorities to ensure rogue drivers and vehicles are prevented from hiding 'over the border' or routinely operating outside the reach of enforcement by their licensing authority. It allows councils to authorise officers from other councils to use enforcement powers on their behalf. This enables those councils to then take action against vehicles which are licensed by the other authority when they cross over council boundaries.

This practice was recently highly commended by the Transport Minister Baroness Kramer, citing some of Merseyside councils' practices since 1995. Transport is also often one of the issues identified as a priority by Combined Authorities. These new structures will make sharing enforcement powers increasingly attractive and could pave the way to extending your regulatory reach beyond your borders. In time, a shared framework similar to Transport for London could evolve.

The protocol is suggested as an easy way forward for those authorities wishing to consider such joint authorisations of officers.

**Protocol:**

1. All authorities agree what level of expertise/qualification/skills is the minimum for approval of authorisation of each individual.
2. All authorities establish, via their own schemes of delegation, what procedural steps need to be taken to validly authorise (ie chief officer's report, sub-committee or full committee decision).
3. All authorities agree the form and wording of the 'letter of authorisation' and 'photo warrant card' to be issued.
4. Each 'requesting council' formally requests authorisation of named individual officers.
5. Each 'receiving council' obtains authorisation and provides a 'letter of authorisation' in respect of the other authority's officers.
6. Each employing authority provides its own officers with a photo warrant card specifying that for the purposes of [specify Acts of Parliament] that officer [name] is a duly authorised officer of [list all authorising councils].
7. Each authority provides all officers with copies of appropriate byelaws, conditions and agreed methodologies/reporting mechanisms for dealing with defective vehicles and other issues from other areas.
8. Each authority seeks political and financial approval for pre-planned joint operations both with each other and also police/HMRC Customs & Excise.
9. Data sharing protocols, as required, be established between authorities, including standard incident reporting templates/operation logs to be used by all for consistency and scheme recording.

<sup>10</sup> The relevant enabling legislation is Section 32 Part I of the Local Government (Miscellaneous Provisions) Act 1976

32 Power of local authorities to execute works outside their areas.

Any power to execute works which is conferred on a local authority by any enactment may, unless the contrary intention appears in that or any other enactment, be exercised outside as well as inside the area of the authority.

## Protecting vulnerable people

Councils can help to protect some of their most vulnerable residents through effective licensing regimes, including children at risk of sexual exploitation. Sadly, both licensed premises and licensed vehicles have been used as opportunities to sexually exploit children, as recent high profile cases have underlined.

We know that many victims of exploitation are too traumatised for investigations to proceed to court, meaning that issues do not always show up through disclosures. This makes additional intelligence from all other sources critical to licensing deliberations.

A detailed exploration of tackling child sexual exploitation (CSE) is outside the remit of this guide, but all councillors and officers, across all services, should familiarise themselves with the LGA's guides on CSE, which can be found at <http://tinyurl.com/CSEguide>.

It is important to recognise that this is a subject that needs to be sensitively handled to avoid drivers feeling that they are being treated as potential criminals. However, the sensitivity around the subject must not mean that the issue is not discussed or that training is not provided.

Your local safeguarding boards also have an important role to play in licensing and you should ensure that safeguarding boards understand the role that licensing can play in their discussions. Your licensing officers should also be fully engaged with relevant safeguarding discussions.

This is particularly important in two-tier areas, with licensing located in the districts and child protection in the county council. A number of serious case reviews have highlighted a failure of communication between the two-tiers of local government as a contributing factor to child exploitation going undetected.

If allegations of CSE or other serious offences are made, then your council should have in place procedures to allow a rapid response from the council. In the most serious cases, it will not be appropriate to wait until a licensing committee or sub-committee can be held.

### **Safeguarding training: Scarborough Borough Council**

Working together, Scarborough Borough Council and North Yorkshire Police identified that working with taxi drivers was key to safeguarding practices linked to the local night-time economy (NTE), particularly in helping to prevent sexual exploitation, and in accessing the information and intelligence drivers held which they'd been reluctant to share with agencies.

An opportunity to capture those individuals arose when Scarborough Borough Council's Taxi Licensing Policy was renewed, introducing **mandatory safeguarding training for taxi drivers wishing to obtain or retain their licences.**

This comprises a two-hour tailored session, written and delivered by Sandra Rees, the Council's Community Safety and Safeguarding Manager and Sgt Rachel Wood, both of whom have operational experience in the NTE. It was essential, for the package to have maximum impact, that it had to be delivered by people who were not only passionate about safeguarding, but also had credible operational experience working in the NTE. The training covers safeguarding children and vulnerable adults, making referrals, signposting to relevant agencies, domestic violence, child sexual exploitation and 'hate and mate' crime.

As well as delivering this training to drivers, it gave an opportunity to establish closer working relationships with drivers going forward. Local taxi officers are now allocated a named PCSO to visit them on a weekly basis to share information and concerns. In addition to this, having listened to drivers' concerns, stickers with 'zero tolerance on abuse to drivers' were printed and distributed to all taxis, and information cards with relevant agency numbers were produced and given to all taxi companies for distribution by their drivers.

With perseverance and careful delivery, the outcomes have been very positive; forging closer relationships with drivers and impacting on their decisions to report concerns. For instance, it has led to a greater number of reports to police regarding drugs information.

### **Operation Sanctuary**

Operation Sanctuary is an investigation into allegations of a series of sexual offences predominantly within Newcastle, but also in other local authority areas, involving a number of men from a range of communities and vulnerable female victims, including teenagers and young adults.

Operation Sanctuary is about targeting men with appalling attitudes towards vulnerable teenagers and women, and stopping their behaviour.

"These crimes are happening behind closed doors, in local streets and it is likely that people living nearby recognise the behaviour we describe. It may be groups of men going into properties with teenage girls or one or two women. They might see women under the influence of drink or drugs who might appear distressed in some way. We need them to report this to us. If it is innocent then nothing will happen to them. But this allows us to check and may avoid someone else becoming a victim.

We also know some of these girls and women may frequent certain businesses which brings them into contact with these men so we will be visiting the premises and speaking to those who work there and those who hang around.

We also believe that the victims are transported in taxis to the different addresses – again we will be speaking to all taxi firms to ask for their help if they spot anything that appears suspicious or fits the description of what we are looking at.

To date 30 people have been arrested for conspiracy to rape women (28 men and 2 women). Those arrested come from a range of communities and backgrounds."Operation Sanctuary, Northumbria Police

As part of Operation Sanctuary, officers have been delivering leaflets in Newcastle city centre to taxi drivers, hotels, and other businesses.

The leaflets advise them of the ongoing operation, how it affects them and what to look out for to identify any potential vulnerable girls or young women.

It is another way we are keeping people informed and updated about the operation and how everyone has a part to play in ensuring information is reported to police.





# Information for taxi drivers and taxi firms

## What is Operation Sanctuary?

Operation Sanctuary is about ensuring our towns and cities are safe places for women and girls to live, work and visit. In particular it is about everyone working together; the police, local authorities, businesses and all local communities to ensure those who may be vulnerable in some way are protected from anyone who seeks to take advantage of them by committing sexual crimes against them.

These crimes can range from those offenders who deliberately set out to target specific women and girls over a long period of time to those who commit such crimes when they come across someone in a vulnerable state

as a result of being under the influence of alcohol, drugs or for other reasons.

Only by working together can we make our communities safe and we all have a part to play. It is the responsibility of everyone to be vigilant and identify such criminal behaviour and to contact police if they have any concerns. If you witness something that doesn't look right or feel right then we need to know about it.

We have had tremendous support from the public and we need this to continue. Only then can we stop such crimes and bring offenders to justice.

## How does it affect you?

Taxis are a very safe and reliable way to get around the city and we want to keep it that way.

We know that some victims are transported in taxis to addresses where they are then sexually assaulted or raped. We also know that some men have posed as taxi drivers and picked up women who have then been assaulted or raped.

We need the help of all legitimate taxi drivers to help us stop this criminal behaviour. If you spot anything that appears suspicious or fits the description of what we are looking for please take action and contact police.

## What to look out for:

- Females who appear to be in a vulnerable state due to excessive drink or drugs.
- Female passengers who are accompanied by a man when in this state and don't know where they are going.
- Passengers being dropped off at a location which causes you concern. Contact police immediately.
- Unlicensed vehicles hanging around areas where there are likely to be women in a vulnerable state looking for taxis to go home.

We are also encouraging passengers to take a photo of taxi licence plates of the vehicles they get into - reputable drivers have nothing to be worried about.

We have already received valuable information from the public that has helped to keep women and girls safe. We need this to continue. You are the eyes and ears in the community and can help stop this.

**If you see something, say something.**

Let us know on 101 or in an emergency call 999.



To see a higher resolution version, please visit: [http://www.northumbria.police.uk/advice\\_and\\_information/operation\\_sanctuary/downloads/index.asp](http://www.northumbria.police.uk/advice_and_information/operation_sanctuary/downloads/index.asp)



## **Liaison with Children's Safeguarding: Torfaen County Borough Council**

In Torfaen, licensing officers are regularly called in to a case conference by their children's services when they become aware that they are dealing with a licensed taxi driver. In the last five years there have been seven occasions where they have been invited to attend a case conference by children's services; not all result in action being taken as it is down to the meeting to decide how to respond.

However, there have been two notable occasions where formal action did result from these meetings.

1. At the case conference it was alleged that while not working a male taxi driver invited a 10 year old girl, a neighbour, into his home as she was waiting outside for her parents to return.

The girl alleged in a specialist interview that while in the man's house, he fondled her breasts and displayed other inappropriate behaviour. At the case conference it was accepted that there was insufficient evidence for the CPS to prosecute him.

The police had conducted an investigation which included a recorded interview with the girl. This information was released to the council who took immediate action to revoke the driving licence on the grounds of public safety. The driver was not prosecuted.

2. Information about a man who was on the register for inappropriate sexual activity with family children was discussed at the case conference. The man was no longer a taxi driver as he had not renewed his licence, however his new partner was a driver with the company he worked for and he was being used by the private hire company as an escort on an education contract.

The council could not take any action against the subject as he no longer held a licence, however, they approached the operator on a confidential basis with agreed information that could be disclosed to make them aware.

### **Rapid response to serious issues: Breckland Council and South Holland Council**

- All intelligence will be from a creditable source only and is restricted to the police or a qualified medical officer. Cases could include charges of rape, other sexual related incidences, violent attacks or medical related issues which means the driver no longer meets the DVLA group 2 standard.
- Reports of a serious nature by a member of the public will always be referred on to the police, in addition to recording by the council. For less serious reports, an investigation will be completed and taken to a committee panel for final decisions.
- On receipt of information from the police or medical practitioner the driver will be contacted by an officer to be made aware of the allegation and requested to attend the office to discuss the report and put forward his/her case - all reasons will be recorded in writing.
- A minimum period of two hours will be provided for this meeting and all methods of communicating the appointment will be explored, including telephone calls, voice mails, text, a visit to the home or a combination of these methods. All interviews are to be conducted in the council offices and only in extreme medical situations the officer should attend their home, accompanied by another member of staff.
- All discussions with the driver will be conducted by two members of staff and, if felt relevant due to the nature of the incident, with the police to ensure no-one is placed in any danger.
- If the driver decides not to attend the meeting, the matter is still dealt with in their absence and will not delay the decision-making process - this decision needs to be recorded.
- A decision would be made by the licensing officer or assistant licensing officer, a senior officer (licensing manager or head of service), a member of CMT and the chairman or vice chairman of the licensing committee.
- Once the decision has been agreed by the appropriate person, the licensing officer or the licensing manager has the relevant delegation to sign any revocations required.
- All decisions and actions should be taken within 48 working hours and ideally within 24 hours of receipt of the information.
- If a driver's licence is revoked under these procedures but later investigation clears the driver of the offence, then it will be a priority to get the licence re-instated. If there is a period of time left on the licence at the point of revocation, this will be the time reinstated on the licence issue and the department will not charge for such a licence.

### **Taxi marshals: Watford Borough Council**

Since 2005, taxi drivers servicing the late night economy in Watford, Hertfordshire have benefited from a taxi marshal scheme.

On three nights of the week – and other identified occasions – two taxi marshals work on the Rickmansworth Road rank, getting passengers in an orderly queue. Passengers who are excessively drunk, are eating or smoking, appear to be violent, don't know their destination or don't have enough money for their fare are refused carriage.

A third marshal at a remote feeder rank is radioed when more taxis are needed at the main rank.

The scheme is not cheap, and taxi drivers have been reluctant to contribute. Over the years, funding has principally come from licensed premises who make annual contributions, and grants from Hertfordshire County Council – who also fund taxi marshals in five other towns in the county. Money has also been obtained from Watford Borough Council, the Safer Watford Partnership, and from the Home Office's now-defunct Tackling Violent Crime programme.

An independent study by The Centre for Public Innovation in April 2008 found that: "Stakeholders agreed that the taxi marshal schemes were having a positive impact on both anti-social behaviour and certain crimes – although they were unable to quantify the extent of the impact. They also noted that the taxi marshal schemes played an important role in influencing perceptions of the night-time economies, sending out a clear message that councils were listening and responding to residents' concerns about the effects of the night-time economies."

Licensing Manager Jeffrey Leib says: "The scheme is generally welcome by many participants in our night-time economy. We have enhanced drivers' safety even further with marshals using CCTV and recording passengers' details before they get into a cab, to reduce the risk of attacks on drivers while en route."

## **Installing CCTV in cabs**

A number of councils require CCTV to be installed in taxis, as a way of reducing crimes and providing evidence to support prosecution. This approach can benefit both passengers and drivers, who can equally be the subjects of assaults, abuse or fraud.

However, it is important to weigh up the frequency of such instances against the cost of installing such equipment, which can be an issue for drivers. Consultation with your driver community will help determine a suitable approach; it is also possible to permit drivers to install CCTV without a requirement for all drivers to install it. You should always require voluntary installation to be notified to the council and check that it meets appropriate standards.

It is important to be aware of surveillance and data protection issues when considering the use of CCTV, particularly with regard to the recording of conversations.

The Information Commissioner's Office (ICO) has said it is not normally justified to use CCTV to record conversations between members of the public as "it is highly intrusive", but have also stated that council applications to install cameras in cabs are likely to be acceptable because of the number of crimes being committed in taxis.

“As well as assessing the impact on privacy, we have accepted they [councils] can take into account factors such as the likelihood of crimes being committed against drivers and passengers; the vulnerable one-to-one situation; the fact that taxis are travelling all over the area at different times of day; and CCTV can protect both the driver and passengers.”<sup>11</sup>

It is therefore essential that licensing authorities take account of people's right to privacy when deciding whether to impose CCTV as a licence condition for taxi drivers. Whether the installation of CCTV is mandatory or voluntary it is essential that the local authority has a strict specification for permissible systems to ensure that there are adequate safeguards, such as who can access the footage.

It is also important to note that the use of CCTV inside and outside the vehicle are treated differently, and that once a passenger is inside a vehicle that they have hired they have a right to privacy. This means that they must be notified that the vehicle has a CCTV system in operation.

Some councils have chosen to specify that audio recording should only be activated when there is a specific threat, in the same way that a panic button could be used.

Transport for London, acting on advice from the ICO, recommend:

- **Where recording is triggered due to a specific threat, eg a ‘panic button’ is utilised. Where this audio recording facility is utilised a reset function must be installed which automatically disables audio recording and returns the system to normal default operation after a specified time period has elapsed.**
- **The time period that audio recording may be active should be the minimum possible and should be declared at the time of submission for approval of the equipment.**

Any specified company, organisation or individual vehicle owner who has a CCTV system installed in a licensed vehicle must register with the ICO (‘notification’) and obtain documented evidence of that registration. This documentary evidence may be required to be presented to an official of Taxis and Private Hire team (TPH) at any time during the term of the TPH vehicle licence. The notification requires renewal on an annual basis, and payment of the appropriate fee.

Due to the complexity of surveillance and privacy legislation and case law, this information is provided only as a summary. Councils wishing to explore this further should seek their own legal advice.

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<sup>11</sup> The Information Commissioner's Office, <https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2014/10/ico-warns-cctv-operators-that-use-of-surveillance-cameras-must-be-necessary-and-proportionate/>  
<https://ico.org.uk/media/about-the-ico/documents/1042192/ico-annual-report-201213.pdf> at page 39

# Special considerations

## Driver training - disability awareness

93 authorities (30 per cent) have a requirement for disability awareness training for taxi drivers, compared to 75 having a requirement for PHV drivers.

It is important that your drivers are fully aware of their responsibilities to the public and their community.

The Equality Act 2010 sets out obligations for public bodies to advance equality of opportunity among people and eliminate discrimination. Taxi and PHV drivers need to have regard to this responsibility when they are operating, and also need to understand how to safely make use of their vehicles' ability to transport wheelchairs. Media stories relating to extra or over-charging for users of wheelchairs have appeared with some frequency in 2014, so councils should make clear to drivers that they cannot charge a disabled passenger more than any other passengers.

There are few training opportunities available to drivers, so many councils have chosen to provide their own training support. Not only does this ensure that your taxis and PHVs are fully compliant with the law, but it adds a roving network of eyes and ears in your area who can help identify and tackle issues such as child sexual exploitation and drugs misuse.

At a time when council enforcement and discretionary travel resources are heavily under pressure, engaging with your driver community in this way should not be underestimated and it repays the small investment needed.

### **Training packages: Telford and Wrekin Council**

Telford and Wrekin Council have developed a one-hour training package which includes a number of subjects aimed to increase drivers' knowledge of the role and improve their level of service.

A presentation is given which explains which acts are unlawful such as PHV drivers loitering in places of public resort without prior booking, drivers charging excessive fares, and drivers smoking in their vehicles.

The training includes useful tips on how to best assist disabled people, including the conveying of wheelchairs and having awareness of the different types of disability. There is also a section on drivers looking after themselves such as being aware of attacks and considering their overall health and fitness.

At the end of the training session the drivers are required to complete a multiple-choice test paper which contains 25 questions based on the driver training package and 52 questions based on street knowledge.

### **Promoting equality awareness: Stockport Metropolitan Borough Council**

Stockport Council's Licensing Team has worked in partnership with Disability Stockport to produce a brochure that includes:

- the contact details of licensed drivers who have successfully completed disability awareness training provided by Disability Stockport and Solutions SK, funded by Stockport Council
- information to enable disabled passengers to book transport with providers who best suit their needs
- guidance to passengers on the types of licensed vehicles available for hire in Stockport
- guidance to disabled passengers on how to hire a licensed vehicle in Stockport and what service they should expect
- advice to licensed drivers on how to assist disabled passengers
- guidance to licensed drivers on what is expected of them further to their disability awareness training
- Information on how to improve the service and awareness of it.

The guide has been recognised as good practice by the Government's Accessible Britain Challenge. The guide can be found at <http://tinyurl.com/stockportdisability>

## **Quantity restrictions**

Quantity restriction is a term used to describe a local council imposing limits on the number of taxi licences within its area. This is often seen as a controversial issue because in those areas that continue to impose quantity restrictions, the taxi trade is often a strong advocate of keeping a 'restricted fleet'. Currently only 88 councils in England and Wales continue to restrict numbers. The decision to restrict taxis is left to the local council, but the LGA suggests that councils consider the DfT's view and state your reasons for departing from it when setting out your licensing policy.

"Most local licensing authorities do not impose quantity restrictions; the Department regards that as best practice. Where restrictions are imposed, the Department would urge that the matter should be regularly reconsidered. The Department further urges that the issue to be addressed first in each reconsideration is whether the restrictions should continue at all. It is suggested that the matter should be approached in terms of the interests of the travelling public." **DfT Taxi and PHV Licensing Best Practice Guidance on quantity restrictions**

### **Restricting the number of taxis: Stockport Metropolitan Borough Council**

Local councils which limit the number of taxis within their fleets should regularly produce an unmet demand survey. The survey reviews the consumer demand for taxis and considers factors such as the length of time customers wait at ranks and waiting times for street hailings and telephone bookings.

In 2008 Stockport Metropolitan Borough Council carried out an unmet demand and public opinion survey, which indicated that there was no significant unmet demand. Stockport licensing committee agreed to maintain a limit on the number of taxis currently licensed by the authority. To ensure this was a balanced decision Stockport considered the guidance issued by the DfT in relation to maintaining limits and various consumer reports which indicate that a general increase in the number of taxis is beneficial for consumers. While maintaining a limit the Committee also agreed to increase that limit by five licences per year over the next three years.

They further committed to reviewing current rank facilities including creating new ranks, particularly night-time ranks in busy areas. The policy is kept under continuous review, with the most recent survey in late 2014 determining that there was no unmet demand and that restrictions should be maintained, although there is scope for providing additional ranking facilities.

### **Lifting quantity restrictions: Salford City Council**

Salford City Council previously had a policy of limiting taxi licence numbers. An unmet demand survey had been carried out in 2004 which recommended an increase in the issue of one licence which brought the total number of taxis in Salford to 79. If the council wished to retain this limit, an additional unmet demand survey would have been required in 2007 costing the council additional resources. It was recognised that a complete review of taxi and private hire licensing functions was required.

The decision to delimit was based on a number of factors:

- the Office of Fair Trading (OFT), now the Competition and Markets Authority (CMA), market study into 'The Regulation of Licensed Taxi and Private Hire Services in the UK' and the Department for Transport's Taxi and Private Hire Best Practice Guidance' which called for the removal of quantity restrictions
- the National Consumer Council campaign which also called for the removal of quantity restrictions
- representations from certain members of the taxi and private hire trades that the wheelchair users were unable to hire taxis at certain times of the day or in certain areas of the City
- feedback following consultation with the public, business community, wheelchair users, elected members and the taxi trade as to taxi availability.

Following adoption of the policy to delimit taxi numbers an interim injunction was served on the Council, on behalf of two taxi proprietors who operated a total of 18 vehicles, preventing implementation of the policy pending a judicial review.

The case was heard in the High Court where the judge ruled that none of the grounds put forward by the claimants were properly arguable for the purpose of judicial review, and the Council were awarded their costs in full.



## Stretched limousines

Many of these vehicles were built in America and do not comply with British requirements for a vehicle of this passenger capacity. This is also true of many other novelty vehicles, which should always be considered on a case-by-case basis. The recent Law Commission report proposed bringing all such vehicles within a standard licensing scheme and the LGA supports this proposal.

### **Limousines with up to eight passenger seats**

These vehicles should be licensed by your council. To become 'road legal' vehicles must meet certain standards before they can be licensed. Vehicles that meet these standards and operate unlicensed pose a risk to public safety.

### **Limousines with over eight passenger seats**

The DVSA licenses vehicles over eight seats such as buses and HGVs, and as such any stretched limousine which has a seating capacity of over eight passenger seats cannot be licensed by councils as a PHV.

#### **Stretched limousine enforcement: Basingstoke District Council**

In 2006 following concerns from the trade and parents, Basingstoke District Council developed a strategy to stop unlicensed stretched limousines plying their trade. Unlicensed vehicles are often in a dangerous state of disrepair and extremely unsafe for the public to travel in, and drivers who are not checked may have a prior serious criminal record.

Enforcement activity was targeted by writing to all secondary schools within the Borough to ask where and when their summer balls were to be held. They provided the schools with an advisory letter, which gave advice to parents about ensuring that the limousines they booked were properly licensed and what evidence to look for.

Basingstoke carried out over 16 joint enforcement operations at the summer balls over the next three years with local traffic police and DVSA checking over 100 vehicles and drivers.

The checks were carried out to ensure the safety of the pupils, and Basingstoke arranged private hire companies to be on standby if necessary and take any affected pupils home as a priority.

The majority of limousines checked were unlicensed by local councils or DVSA, and some drivers had serious criminal records, no DVLA licence and no insurance.

Where there had been serious issues such as unlicensed vehicles or drivers arrested the parents who booked the vehicles were advised in case they wished to claim back costs from the company and so they could also avoid using them again in the future.



# Checklist for councillors in England and Wales

This list is intended to help you gauge your council's effectiveness in providing a competent taxi and PHV licensing service. The answers should help you determine the quality of the service your council delivers, and whether changes should be made.

- Are the needs and safety of passengers placed at the centre of your licensing system?
- Are drivers assessed against agreed and appropriate standards to ensure they are 'fit and proper' and entitled to hold a licence? Many councils require applicants to undertake group 2 medical checks, enhanced Disclosure and Barring Service (DBS) checks and local knowledge tests before they are licensed to carry the public.
- Are your drivers provided with training on disability awareness, spotting child sexual exploitation and other locally relevant issues?
- Does your council have a taxi and PHV licensing policy document, which has been subject to regular review and has regard to the Department for Transport's Best Practice Guidance (last issued March 2010) and has been consulted on with the trade and user groups?
- Do your taxi licensing officers have a regular dialogue with neighbouring councils, with a view to adopting consistent standards, developing a common approach and to share relevant information?
- Do you have sufficient information and understanding to challenge or defend your council's taxi and PHV licensing activity in the context of an overview and scrutiny committee?
- Does your council have a multi-agency enforcement programme with the police, DVSA and neighbouring councils? Such operations help ensure the public remain safe.
- Does your council have adequate numbers of accessible taxis – to ensure people who are vulnerable in society such as disabled users can utilise the service?
- Does your council have effective consultation methods with taxi and PHV representatives and taxi users? Many councils have taxi liaison forums which meet on a regular basis.
- Are vehicles subject to agreed and routine stringent testing to ensure they are mechanically safe and suitable to transport the public?
- Are your licensing fees and charges sufficient to provide the resources for an efficient licensing service but which does not create a surplus? If there is a surplus, is this returned through a reduction in future fees?
- Does your council license stretched limousines under eight passenger seats? Many vehicles are operating unlicensed and unchecked as some councils refuse to license such vehicles.

# Glossary

**1847 Act** – Town Police Clauses Act 1847

**1976 Act** – Local Government (Miscellaneous Provisions) Act 1976

**1998 Act** – Human Rights Act 1998. This Act transposed the European Convention on Human Rights into UK law.

**CSE** – Child Sexual Exploitation. Sexual exploitation of children and young people under 18 involves exploitative situations, contexts and relationships where young people (or a third person or persons) receive ‘something’ (eg food, accommodation, drugs, alcohol, cigarettes, affection, gifts, money) as a result of them performing, and/or another or others performing on them, sexual activities.

**DVSA** – The Driver and Vehicle Standards Agency is an executive agency of the Department for Transport and is responsible for setting and improving standards for driving, including the roadworthiness of vehicles.

**DVLA** – The Driver and Vehicle Licensing Agency is an executive agency of the Department for Transport and maintains registers of drivers and vehicles in Great Britain.

**Hackney carriage** – See Taxi

**IoL** – The Institute of Licensing is a membership body for licensing officers, licensing lawyers and the licensed trade

**NALEO** – The National Association of Licensing and Enforcement Officers is a professional body for licensing officers.

**PHV** – See Private hire vehicle

**Ply for hire** – To be hailed in the street to pick up a passenger. This can only be done by taxis.

**Private hire vehicle** – Private hire vehicles (PHVs) include a range of vehicles including minicabs, executive cars, limousines and chauffeur services. They must be pre-booked and cannot be hailed by people on the street.

**Taxi** – Taxis are referred to in legislation, regulation and common language as ‘hackney carriages’, ‘black cabs’ and ‘cabs’. They can be hailed in the street, but can also be pre-booked.





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TO: LICENSING AND SAFETY COMMITTEE  
11 JUNE 2015

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**LICENSING ACT 2003: DEREGULATION UPDATE**  
**Chief Officer: Environment and Public Protection**

**1 INTRODUCTION**

- 1.1 This report highlights recent deregulation of activities previously licensable under the Licensing Act 2003 (“the Act”) which regulates the sale of alcohol, the provision of late night refreshment and regulated entertainment.

**2 SUPPORTING INFORMATION**

Deregulation of entertainment licensing

- 2.1 A Legislative Reform Order (“LRO”) to amend the provisions of the Act to deregulate certain types of regulated entertainment in defined circumstances came into force on 6 April 2015. The LRO amended the Act as follows:

**Cross-activity exemption**

The provision of regulated entertainment by or on behalf of local authorities, health care providers, or schools on their own premises is now exempt from licensing between 08.00-23.00, with no audience limit.

**Live music in relevant alcohol licensed premises and workplaces**

The audience limit for a performance of live amplified music in alcohol licensed premises or in a workplace between 08.00-23.00 has been raised from 200 to 500.

**Recorded music in relevant alcohol licensed premises**

Any playing of recorded music in relevant alcohol licensed premises between 08:00-23:00 is now deregulated for audiences of up to 500 [NB there is no deregulation for recorded music in workplaces, so this differs from live music].

**Live and recorded music exemptions**

Local authorities, health care providers and schools are now exempt from entertainment licensing when making their own premises available to third parties for live and recorded music between 08:00-23:00 for audiences of up to 500.

Community premises not licensed to supply alcohol are now exempt from entertainment licensing requirements for live and recorded music between 08:00-23:00 for audiences of up to 500.

**Travelling circuses**

Travelling circuses are now exempt from entertainment licensing in respect of all descriptions of entertainment, except an exhibition of a film or a boxing or wrestling entertainment, where the entertainment or sport takes place between 08:00-23:00, with no audience limit provided it takes place within a moveable structure that accommodates the audience.

**Greco-Roman and freestyle wrestling**

Greco-Roman and freestyle wrestling is now deregulated between 08:00-23:00 for audiences of up to 1000 people.

### **Incidental film**

An exhibition of film that is incidental to another activity (where that other activity is not itself a description of entertainment set out in paragraph 2 of Schedule 1 to the 2003 Act) is now exempt from licensing.

- 2.2 A guidance document is currently being developed by Berkshire Licensing Liaison Group to circulate to schools and community groups to ensure they are fully aware of the changes to the Act.

### Personal licence deregulation

- 2.3 Under the Act, personal licence holders are able to sell alcohol and directly authorise others to make sales. Most premises holding a premises licence under the Act require a personal licence holder to hold the post of Designated Premises Supervisor as a mandatory condition on the premises licence.
- 2.4 The requirement to renew personal licences every 10 years was abolished with effect from 1 April 2015. All new licences issued from 1 April 2015, plus re-issued licences, shall bear no expiry date.
- 2.5 Safeguards will remain, as a personal licence holder convicted of a relevant offence is required to tell the Court if they have a personal licence pursuant to section 128 of the Licensing Act 2003. The Courts will retain powers to forfeit a personal licence if the holder is convicted of a relevant offence.

### Other changes

- 2.6 The offence of selling liqueur confectionery to children under 16 has been repealed with effect from 26 May 2015. After that date a person of any age can buy liqueur confectionery in England and Wales.
- 2.7 The limit on the number of temporary events that can be held at a single premises will increase from 12 to 15 per year from 1 January 2016.
- 2.8 The proposed introduction of Community and Ancillary Seller Notices (which would have allowed particular low-risk businesses, such as bed and breakfast providers, and community groups to sell alcohol) and changes to late night refreshment licensing require secondary legislation. Parliamentary time has now run out to implement this, so it will have to be looked at by the new Government.

## **3 EQUALITIES IMPACT ASSESSMENT**

- 3.1 None.

## **4 STRATEGIC RISK MANAGEMENT ISSUES**

- 4.1 None.

### Background Papers

None

### Contact for further information

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

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