

NOTICE OF MEETING

Licensing and Safety Committee

Thursday 10 October 2013, 7.30 pm

Council Chamber, Fourth Floor, Easthampstead House, Bracknell

To: The Licensing and Safety Committee

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

ALISON SANDERS
Director of Corporate Services

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Published: 2 October 2013



Licensing and Safety Committee
Thursday 10 October 2013, 7.30 pm
Council Chamber, Fourth Floor, Easthampstead House,
Bracknell

AGENDA

Page No

1. **Apologies for Absence**

To receive apologies for absence.

2. **Declarations of Interest**

Members are asked to declare any personal or disclosable pecuniary interest in respect of any matter to be considered at this meeting.

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

3. **Minutes**

To approve as a correct record the minutes of the meetings of the Licensing and Safety Committee held on 1 May 2013 and 15 May 2013.

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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. **Face to Face Direct Debit Collections: Site Agreement**

To consider a report seeking approval of a revised version of the agreement held with the Public Fundraising Regulatory Association which controls face-to-face direct debit collections in the street in Bracknell Forest.

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7. **Fees and Charges**

To consider a report seeking approval to agree that the proposed fees and charges for 2014/15 go forward for further discussion and consideration as part of the Council fee setting process.

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| 8. | Review of Taxi Guidance Notes
To consider a report seeking approval to go out to consultation on an amended version of the Council's Guidance Notes and Conditions document. | 33 - 98 |
| 9. | Health and Safety Law Enforcement Plan
To consider a report seeking approval of the Health and Safety Law Enforcement Plan for 2013-14. | 99 - 122 |
| 10. | House to House Collections
To consider a report seeking approval of a proposed way forward with regard to house to house collections. | 123 - 126 |

Information Items

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| 11. | Hackney Carriage Surcharge
To receive a report setting out a proposed way forward in respect of discussion about amendments to the tariff of fares charged by hackney carriages | 127 - 128 |
| 12. | Deregulation of Entertainment and Alcohol Licensing
To receive a report providing an update on further deregulation of entertainment licensing which took effect from 27 June 2013, and a proposed change to alcohol licensing. | 129 - 130 |
| 13. | Scrap Metal Dealers Act 2013
To receive a report providing an update on the new Scrap Metal Dealers Act 2013 which received Royal Assent on 28 February 2013 and was implemented on 1 October 2013. | 131 - 132 |
| 14. | Mobile Homes Act 2013
To receive a report providing an update on the Mobile Homes Act 2013 which received Royal Assent on 26 March 2013 and the impact that it will have on the Borough's residents. | 133 - 134 |

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**LICENSING AND SAFETY COMMITTEE
1 MAY 2013
7.30 - 8.45 PM**

Present:

Councillors Thompson (Chairman), Allen, Baily, Mrs Barnard, Brossard, Davison, Finch, Finnie, Gbadebo, Kensall, Porter and Mrs Temperton

41. Declarations of Interest

There were no declarations of interest.

42. Minutes

RESOLVED that the minutes of the Licensing and Safety Committee held on 10 January 2013 be approved as a correct record and signed by the Chairman.

Matters Arising

Minute 39: House to House Collections – It was reported that following an appeal by two textile collection companies against Cardiff City Council's refusal to grant them licenses for door to door collections on the grounds that the proportion of the proceeds donated to charity from previous collections had been less than 10% the Cabinet Office had ruled that the amount paid by a commercial company to charitable causes should play no part in the consideration of the Council when deciding to refuse or grant a collection.

Officers were awaiting notification of whether or not Cardiff City Council can and would appeal the Cabinet Office's decision by means of a judicial review. It was agreed that until clarification had been obtained on the matter Bracknell Forest Council's requirement for textile collection companies to donate a minimum of 80% of the proceeds of any collection to charity would be suspended. An update on the situation would be brought to the Committee's July meeting.

43. Urgent Items of Business

There were no urgent items of business.

44. Notice of Public Speaking

The Committee noted that Mrs Jane Robson, JJM Cars, had registered to speak to Item 6: Hackney Carriage Surcharge for 5 or More Passengers.

45. Hackney Carriage Surcharge for 5 or More Passengers

The Committee considered a report seeking approval of changes in the Hackney Carriage surcharge of 50% surcharge on journeys with 5 or more passengers

The Hackney Carriage Surcharge for journeys with five or more passengers had been introduced following the Council's adoption of the Accessible Taxi Policy in 2000 in recognition of the fact that at the time the policy was introduced the choice of wheelchair accessible vehicles was limited to London style cabs or large van conversions. Both of which were significantly more expensive to purchase, run and maintain than many of the saloon vehicles licensed at the time. Over the past ten years, the range of accessible vehicles has increased and the compulsion to purchase a larger vehicle no longer exists. Currently only 31 of the 86 vehicles licensed as hackney carriages in Bracknell Forest are large van variants.

It was therefore considered that the market circumstances and rationale for the introduction of the surcharge had changed significantly since it was introduced by the Licensing and Safety Committee in July 2002 and that it was no longer a proportionate or appropriate level of charge. Consultation on replacing the 50% surcharge with a flat rate of 50 pence per additional passenger on journeys with more than 4 passengers was carried out between January and March 2013 via the Council's website, notification in trade newsletters and Twitter. A total of 22 responses were received with the majority expressing opposition to the proposed change with the main reasons for the objection being:

- Removal of the tariff in its present form would make running the larger vehicles economically unviable
- If the larger vehicles became unviable then their numbers would decrease and larger parties would in future have to travel in two vehicles, the current pricing structure thus represents good value for money for customers

Mrs Jane Robson, JJM Taxis, spoke against the proposed changes and stressed that if introduced the changes would have a detrimental impact on a service that was already suffering in the current financial climate.

Arising from Members' questions and comments the following points were noted:

- One complaint had been received from a member of the public in relation to the current surcharge and a handful of drivers had reported incidents with passengers complaining about the fare increase at the end of their journey
- To prevent fraudulent use all meters were locked to specific times and dates. Any allegations of fraudulent use were investigated
- The surcharges used by other local authorities varied however neighbouring local authorities imposed smaller surcharges on larger groups with many imposing a surcharge based on a flat rate per passenger
- Reading's Hackney Carriage fleet were all London Black cab styles and many other local authorities had introduced accessible vehicles
- Signs were displayed in Hackney Carriages drawing customer's attention to the surcharge but it was questioned how prominent these signs were
- Meters were owned by the vehicle owner but the tariffs were set by the Meter Company in accordance with local authority requirements
- Whilst Private Hire Vehicles were able to negotiate their charges for pre-booked journeys Hackney Carriages operating within the borough had to use their meter unless the journey ended outside the Borough. In such circumstances they could negotiate the fare as long as the fare was not higher than that which would have been determined by the meter.
- The possibility of phasing in the tariff changes was suggested

RESOLVED that the decision on the proposed changes to the Hackney Carriage Surcharge be postponed until the meeting of the Licensing and Safety Committee on

4 July 2013 following consideration of a full report detailing the full range of options available.

46. **Annual Report and Service Plan**

The Committee considered a report setting out the activities of the Licensing Section during the period 1 April 2012 to 31 March 2013 and the proposed work plan for the period 2013/14.

It was reported that during 2012/13 officers had carried out 192 programmed inspections, compared to 176 during the previous year. Non-programmed inspections were conducted where intelligence was received that non-compliance was an issue, these visits were usually carried out at evenings and weekends and during the period 2012/13 139 non-programmed inspections were carried out, compared to 105 during the previous year.

During 2012/13, officers had issued 13 warnings in relation to licensing matters, compared to 14 in 2011/12. A total of 292 enforcement points had been issued to 28 taxi drivers and three of those awarded points went before the Licensing Panel due to their collection of 12 or more penalty points within a 12 month period. It was noted that these figures compared favourably with those of the previous year which saw 391 enforcement points being awarded to 52 drivers.

The Committee questioned the licensing of scrap metal dealers and it was clarified that scrap metal dealers required a licence only from the local authority in which they were geographically based. Officers worked with Thames Valley Police to monitor scrap metal dealers operating in the area.

It was noted that premises with explosives licences were generally shops selling fireworks and stringent regulations were put in place governing what could be done on site.

It was agreed that clarification would be given on the requirements for licensing of temporary pop up cinemas operating out of community venues and school halls.

RESOLVED that the Work Plan, attached as Annex B to the Chief Officer: Environment and Public Protection's report, be approved.

47. **Health and Safety Law Enforcement Plan 2013/14**

The Committee considered a report containing a draft of the Health and Safety Law Enforcement Plan 2013-14.

The report set out the proposal for delivery in line with direction from the Health and Safety Executive. The objective was to ensure that national priorities and standards were delivered effectively and consistently at local level. Progress against the Plan was monitored as an operational indicator and the Council's performance in relation to health and safety enforcement was reported to the Health and Safety Executive on a biannual basis.

The Council commits 1.5 FTE officers to the Health and Safety function and during the current year 217 contacts had been undertaken and 283 health and safety visits had been made for advisory or other enforcement purposes. The intention of the Council's Health and Safety Service was to work with businesses offering advice and guidance with regulation and enforcement used only when necessary.

Arising from the Committee's questions and comments the following points were noted:

- Laser treatments were a specialised service and there were only two premises in the Borough licensed to carry out laser treatments
- Safety at tanning salons had been a priority area in the previous year's work plan and a joint project had been run with Trading Standards. During the year all premises offering tanning had been inspected and recommendations subsequently made. This had been followed up with a test purchasing exercise which had resulted in one potential sale. Similar operations would be carried out this year.
- During the regeneration of Bracknell town centre the Health and Safety Executive would have overall responsibility for health and safety on the site however Council officers would provide additional support as and when required
- Premises selling fireworks were licensed under the health and safety regime
- The Committee commended the clear format of the draft work plan

The Committee noted the timescales for the production of the final Health and Safety Law Enforcement Plan 2013-2014.

48. **Face to Face Direct Debit Collections: Site Agreements**

The Committee considered a report seeking approval of a revised version of the agreement held with the Public Fundraising Regulatory Association (PFRA) which controls face to face direct debit collections in the streets of Bracknell Forest.

The Police, Factories etc (Miscellaneous Provisions) Act 1916 only provided for the collection of money or sale of good for charitable purposes. Consequently, the collection of direct debit mandates 'face to face' in the street did not require any formal authorisation from the Council, as the mandate is simply a promise to make payment. To help control Face to Face collections and ensure that collections did not clash with permitted street collections the Council had entered into a voluntary site management agreement with the PFRA, a self regulating umbrella body; an arrangement that had worked well in recent years.

To improve the clarity of the agreement the PFRA had proposed the following amendments to the current agreement:

- i. Removal of the restriction in number of collections to take place each year
- ii. Changing the minimum distance between fundraisers from 5 metres to 3 metres
- iii. Clarify that only one charity will present on any site on any one day
- iv. Add provision for the Council to nominate exclusion dates where no direct debit collections may take place

The Committee noted the proposed revisions and questioned the absence of maps showing the areas in Crowthorne and Sandhurst covered by the agreement.

RESOLVED that, subject to removal of references to Sandhurst and Crowthorne and the correction of the nominated gatekeeper details in section 4.1 of the agreement, the PFRA site agreement attached as Annex B to the Chief Officer: Environment and Public Protection's report, be approved as the document covering face-to face direct debit collections within the Town Centre carried out by members of the PFRA.

49. **Licensing Panel Minutes**

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

CHAIRMAN

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**LICENSING AND SAFETY COMMITTEE
15 MAY 2013
8.31 - 8.33 PM**



Present:

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

Apologies for Absence were received from:

Councillors Brunel-Walker

1. Election of Chairman

RESOLVED that Councillor Thompson be appointed Chairman of the Licensing and Safety Committee for the Municipal Year 2013/14.

COUNCILLOR THOMPSON IN THE CHAIR

2. Appointment of Vice-Chairman

RESOLVED that Councillor Leake be appointed Vice-Chairman of the Licensing and Safety Committee for the Municipal Year 2013/14.

3. Appointment of Licensing Panel - 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
10 OCTOBER 2013**

**FACE-TO-FACE DIRECT DEBIT COLLECTIONS – SITE AGREEMENT
Chief Officer: Environment and Public Protection**

1 PURPOSE OF REPORT

- 1.1 This report seeks approval of a revised version of the agreement held with the Public Fundraising Regulatory Association (PFRA) which controls face-to-face direct debit collections in the street in Bracknell Forest.

2 RECOMMENDATION

- 2.1 **That the PFRA site agreement at Annex A is approved as the document governing face-to-face direct debit collections within the borough carried out by members of the PFRA.**

3 REASONS FOR RECOMMENDATION(S)

- 3.1 This agreement allows the Council a degree of control over these types of collections. Without the agreement, the Council would have no power to control the number or location of such collections.
- 3.2 The PFRA have submitted supporting information in respect of this matter at Annex B.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The Committee may wish to suggest further amendments to the proposed site agreement which would be referred back to the PFRA for consideration.

5 SUPPORTING INFORMATION

- 5.1 The collection of direct debit mandates 'face-to-face' in the street does not require any formal authorisation from the Council as the Police, Factories etc (Miscellaneous Provisions) Act 1916 only provides for the collection of money or sale of goods for charitable purposes. A direct debit mandate has no particular worth at the point of collection, as it is simply a promise to make payment by issuing an order to a bank or building society.
- 5.2 The situation is currently monitored and controlled by an agreement with the Public Fundraising Regulatory Association (PFRA), a self-regulating umbrella body with which the Council has worked to ensure that there are no clashes with permitted street collections.
- 5.3 The LGA recommends voluntary site management agreements as an effective solution for those that want to have "more control over face-to-face fundraising", because they bring together PFRA's expertise in controlling fundraising and councils' knowledge of local conditions.

5.4 The following amendments are proposed to the agreement:

- (i) Removal of the restriction in number of collections to take place each year
- (ii) Change the minimum distance between fundraisers from 5 metres to 3 metres
- (iii) Clarify that only one charity will present on any one site on any one day, and
- (iv) Add provision for the Council to nominate exclusion dates where no direct debit collections may take place.

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

6.1 There are no implications arising from the recommendation in this 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 None.

Method of Consultation

7.2 None.

Representations Received

7.3 Not applicable.

Background Papers

LGA Publication: Making the pledge – Promoting vibrant and enjoyable town centres by improving face-to-face fundraising standards: http://www.local.gov.uk/web/guest/publications/-/journal_content/56/10171/3778081/PUBLICATION-TEMPLATE

Contact for further information

Laura Driscoll, Licensing Team Leader - 01344 352517

laura.driscoll@bracknell-forest.gov.uk



Public Fundraising *Regulatory* Association

August 2013

Site Management Agreement

Site Management Agreement

Between PFRA and Bracknell Forest Council

Prepared by: **Dr Toby Ganley**
Head of Policy

+44 (0)20 7401 8452
toby@pfra.org.uk
www.pfra.org.uk

1 Purpose

The purpose and spirit of this voluntary Site Management Agreement (SMA) is to facilitate responsible face-to-face fundraising in the Bracknell Forest Borough Council area including Bracknell, Sandhurst and Crowthorne town centres and provide balance between the duty of charities and not-for-profit organisations to fundraise and the rights of the public to go about their business without the impression of undue inconvenience. For the avoidance of doubt, this document does not constitute a legal contract.

Once this agreement is in place it should minimise the administration for the council, providing just one channel for information and support regarding face-to-face fundraisers, as nominated 'gatekeepers' only have to deal with one organisation, the PFRA, instead of dealing with each individual charity and fundraising organisation separately.

2 Statement of Conformity

All fundraisers will abide at all times by the relevant elements of the Institute of Fundraising's [Code of Fundraising Practice](#), and the PFRA's [Rule Book](#), or face the appropriate penalties.

If local authority officers note fundraisers contravening the PFRA's Rule Book or any local clause within the SMA, they will inform the PFRA's Head of Standards by contacting them on 020 7401 8452, providing details of the incident.

3 Access Details

3.1 Sites, team sizes, positioning, and frequency

Sites may be used as follows, as shown in the map at Appendix 1:

Bracknell

Fundraisers may use either or both the High Street and Charles Square avoiding connecting streets **and** where such streets are narrow

Capacity: maximum of 4 fundraisers plus one non-fundraising team leader

Positioning: fundraisers to avoid connecting streets and where such streets are narrow

Frequency: One day a week

Sandhurst

Yorktown Road from Swan Lane to Crowthorne Road

Capacity: maximum of 3 fundraisers including a team leader

Positioning: fundraisers to be spread out along the length of the site, avoiding areas with narrow paths

Frequency: 2 days per 4 week period

Crowthorne

High Street from the junction with Church Street to Dukes Ride

Capacity: maximum of 3 fundraisers including a team leader

Positioning: fundraisers to be spread out along the length of the site, avoiding areas with narrow paths

Frequency: 2 days per 4 week period

Where fundraisers are found to be working outside of the agreed locations, they must comply with requests made by Local Authority Officials and reposition themselves correctly or as directed on-site.

Only one charity will be present on any one site on any one day.

Fundraising will only be permitted between the hours of 9am and 7pm, unless otherwise specified.

Any exclusion dates (e.g. specific event days) are to be announced by the Council to the PFRA to be booked into the PFRA's diary management system, giving a minimum of 4 weeks' notice to the PFRA from date of diary delivery.

3.2 Other Conditions

Fundraisers should be positioned in such a way as to offer an adequate 'comfort zone' to those users of the public highway who do not wish to engage. In furtherance of this, it is desirable that a minimum footway channel of 1 metre be maintained between fundraisers and the kerb / shop frontage where it is reasonable to do so.

Fundraisers should maintain a reasonable distance (of approximately 5 metres) apart from one another and any other legitimate street activities (e.g. Big Issue sellers, buskers, newspaper stands, promotional activities and market researching).

4 Information Required

4.1 Nominated Gatekeeper

The nominated gatekeeper for Bracknell Forest Council is the Licensing Team Leader, Laura Driscoll, and her contact details are 01344 352517, Laura.Driscoll@bracknell-forest.gov.uk. In her absence all enquiries should be made to licensing@bracknell-forest.gov.uk or 01344 352000.

4.2 Required Information

The PFRA will maintain and manage the diary schedule. Diary/Schedule information will include: contact details for the agency (if applicable); and charity being fundraised for.

Copies of the diary are to be made available to: licensing@bracknell-forest.gov.uk

These contact details shall be updated as and when necessary.

4.3 Transition and continuity

Should the nominated gatekeeper move on or responsibilities otherwise change, the gatekeeper will inform his/her successor of the detail of this agreement, the relationship with the PFRA, arrangements for the regulation of face-to-face fundraising, and provide the PFRA with contact details for the successor.

5 Complaint Management

PFRA will respond to and seek to resolve all complaints received, and issue penalties according to its rules. The Council will provide real time notification of any complaints it wishes to be resolved immediately and provide sufficient detail for any retrospective complaints to be investigated. Where the collection agencies or the charities themselves receive complaints it is expected that they will provide information to the PFRA including information about the identity of any individual collector who is subject of a complaint and of the action taken (if any).

In the event that any complaint is unable to be resolved to the satisfaction of the complainant, said complainant is advised to report the complaint to the Fundraising Standards Board ([FRSB](#)).

6 Working Together

Bracknell Forest Council agrees to work with the PFRA to raise awareness regarding this site management scheme, including explaining what face-to-face fundraising is, the PFRA, the Code of Practice, and facts about Direct Debit.

The PFRA monitors member organisations, through a programme of random spot-checks, responding to complaints, and other mechanisms, to ensure fundraisers' adherence to the code of practice, PFRA Rules, and Site Management Agreements. The PFRA can give appropriate penalties or sanctions to those not abiding by the rules.

This SMA will be reviewed 6 months after it is signed, and then once every 12 months, if necessary, or earlier if there is just cause to do so. All amendments will be agreed in writing before becoming effective. Either party can withdraw from this agreement, giving 3 months' notice in writing.

Depending on when this agreement is signed, in relation to the PFRA's bidding/allocation cycle, there will be a lead-time of up to 8 weeks before the agreement can be fully implemented.

Signed For and On Behalf Of PFRA:

Dr Toby Ganley, Head of Policy

Date:

Signed For and On Behalf Of Bracknell
Forest Council:

Print name:

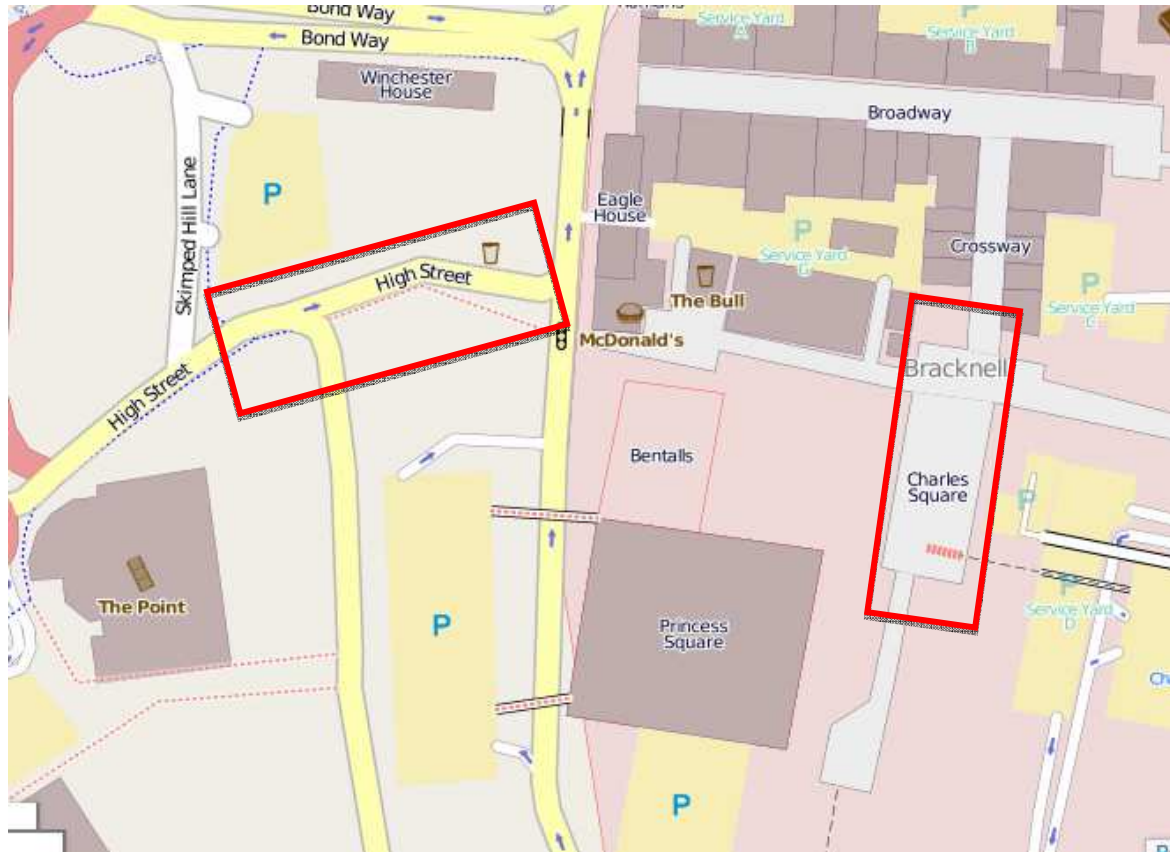
Job title:

Dated:

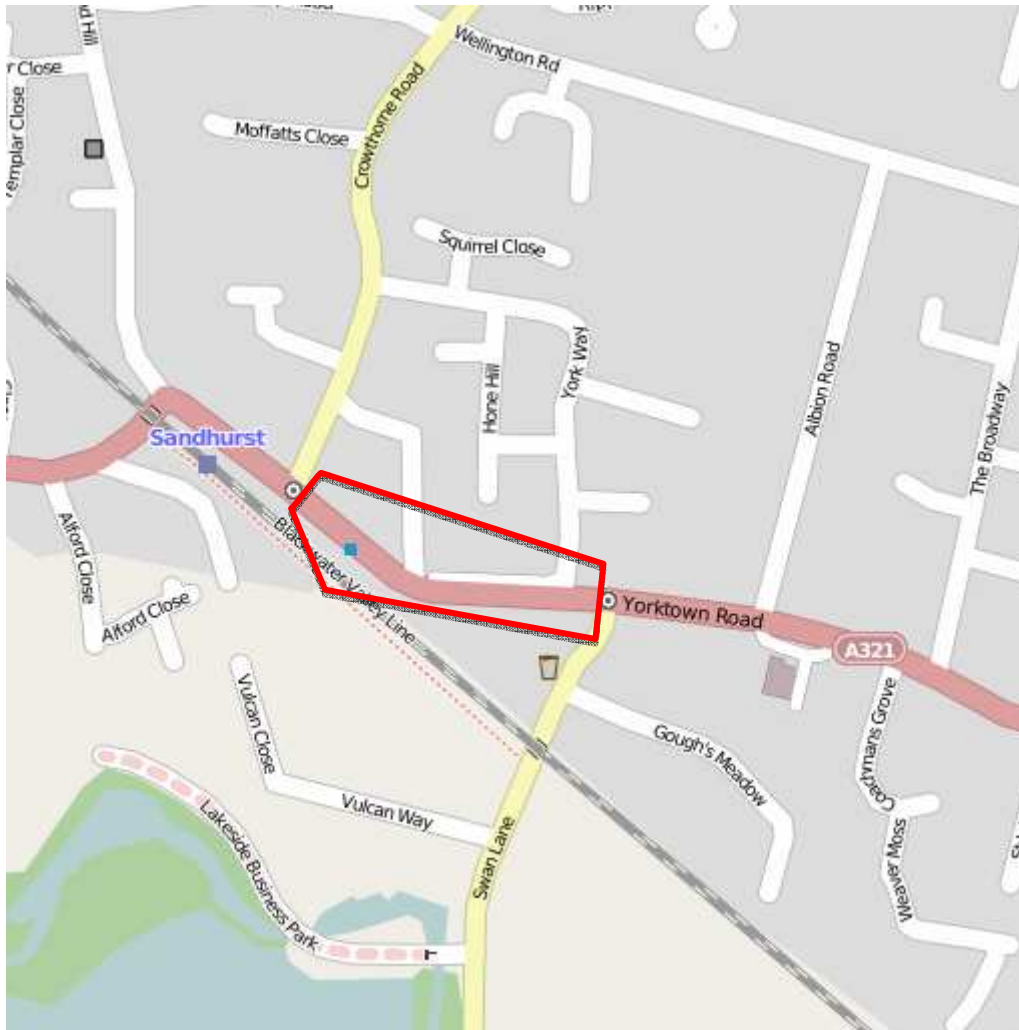
Appendix 1 - Maps

Plan showing the areas where fundraising is to be permitted:

Bracknell



Sandhurst



Crowthorne



Appendix 2 - Direct Debit Guarantee

Know your rights - The Direct Debit Guarantee

Direct Debit is one of the safest ways of making charitable donations. Organisations using the Direct Debit Scheme go through a careful vetting process before they're authorised, and are closely monitored by the banking industry. The efficiency and security of the Scheme is monitored and protected by your own bank or building society.

The Direct Debit Scheme applies to all Direct Debits. It protects you in the rare event that anything goes wrong.

The Direct Debit Guarantee

- The Guarantee is offered by all banks and building societies that accept instructions to pay Direct Debits.
- If there are any changes to the amount, date or frequency of your Direct Debit the organisation will notify you (normally 10 working days) in advance of your account being debited or as otherwise agreed. If you request the organisation to collect a payment, confirmation of the amount and date will be given to you at the time of the request.
- If an error is made in the payment of your Direct Debit, by the organisation or your bank or building society, you are entitled to a full and immediate refund of the amount paid from your bank or building society.
 - If you receive a refund you are not entitled to, you must pay it back when the organisation asks you to.
- You can cancel a Direct Debit at any time by simply contacting your bank or building society. Written confirmation may be required. Please also notify the organisation.

Background

The Public Fundraising Regulatory Association (PFRA) is the nationally recognised self-regulator for face-to-face fundraising (F2F) activity – direct debit solicitation or data capture – conducted in public spaces by charities and good causes in the UK. Our aim is promote responsible fundraising practices and to do this we work in partnership with councils, business improvement districts etc to provide and enforce a free, self-regulatory regime. All charities and fundraising organisations that do this type of fundraising activity are members of ours, which is why we can offer this regulatory model.

Our work is supported by the Local Government Association, who we entered into an agreement with us in November last year. “Making the Pledge” supports the use of our self-regulatory model to control F2F activity in council areas. We also have the support of a number of other professional bodies including the National Association of Licensing and Enforcement Officers (NALEO), the Institute of Licensing (IoL), the Association of Town and City Management (ATCM).

Review of the Site Management Agreement

We first entered into a site management agreement (SMA) with Bracknell Forest back in 2008. The conditions contained within the original SMA allow for 4 fundraisers plus a non-fundraising team leader to work in each of Bracknell, Crowthorne and Sandhurst one day a week. We approached the council earlier this year to see how they felt the arrangements were working.

Together, we have looked at the levels of fundraising in each of these areas, their population, the areas available for fundraising and their likely footfall as well as comments from our members and yourselves. Our aim is to try to find the balance between charities’ duty to ask for support and the right of the public not to be put under undue pressure to give.

We understand you have some concerns around the use of Crowthorne and Sandhurst for fundraising activity. We know that our members do visit both these towns fairly regularly and have concerns that to remove them from the SMA would unreasonably affect their ability to ask members of the public to support the causes they represent within the council area and ultimately could have a negative impact on charities’ income.

Improvements to our practices

We have made a number of improvements to how our SMAs look and the information contained within them since 2008. They are now simpler and clearer and aim to make it easier for both councils and fundraisers to use them. Beyond this we have introduced a comprehensive penalties and sanctions regime – contained within our Rule Book. This was introduced in August 2012 and sets out the expected standards of behaviour for fundraisers. It covers a wide range of behaviours and conduct and we regularly review it to ensure this continues to be the case.

Each of the rules is associated with a number of penalty points, either 20, 50 or 100, which are then issued to our members when they have broken a rule. Once a member's penalty points total 1000 across the whole of the UK, they become a monetary fine for the member, with each penalty point equating to £1. We will be publishing our compliance benchmark in November, however initial trends show that the number of penalty points we have been issuing has decreased, with no associated decrease in compliance activities, suggesting an initial improvement in fundraiser behaviour.

As our co-regulatory partners within the SMA, you are able to let us know when you see anybody contravening the rule book or the conditions within the SMA, we will then not only work to fix it live (about 30 minutes to an hour) but also issue penalty points to our members based on what you've told us. Therefore if you became aware of fundraisers working in the wrong place in any of the towns in the SMA and let us know, we can fine our members, which can be expected to result in greater compliance next time they work in your area.

An SMA therefore not only dictates when fundraisers can come to your area, where they can operate and how many of them can work there, it also gives you the reassurance of our penalties and sanctions regime, which is key to improving fundraiser behaviour.

However, we do understand your concerns about Crowthorne and Sandhurst and have therefore redrafted the terms of the SMA. The re-drafted SMA would reduce the levels of fundraising in each town and the numbers of fundraisers that can operate at any one time. Our new proposals are that F2F activity should only take place in each town 2 days out of 4 weeks with only 3 fundraisers. To help with compliance etc we have also included a map in the new SMA and written into the site delineation that fundraisers should avoid narrow pathways. Hopefully this should mitigate any of your concerns about these areas being used inappropriately, and if you do see any fundraisers not abiding by the delineations, the numbers of fundraisers set out etc. you can tell us, we can fix it live, and issue penalty points to our members.

Conclusion

Our work seeks to create a balance between the duties of charities and the needs of local people. We would not wish to facilitate fundraising in areas where it would be inappropriate or overly disruptive, however we do know that our members visit both Crowthorne and Sandhurst and by taking these out of the SMA altogether it would have a potentially negative effect on charities' income. In order to address your concerns we have limited the number of visits and reduced the number of fundraisers and hopefully this compromise will answer your concerns whilst maintaining sustainable levels of support for our charity members.

If you continue with the SMA you would also get the benefit of our penalties and sanctions regime, which continues to help drive up standards and improve fundraiser behaviour.

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

**FEES AND CHARGES 2014-2015
Chief Officer: Environment and Public Protection**

1 PURPOSE OF REPORT

- 1.1 Each service area is required to review the fees and charges it levies on behalf of the Council as part of the budget process. Attached to this report are appendices which set out the current and proposed fees for Licensing matters.
- 1.2 Members are asked to note the proposals and agree these fees go forward for further discussion and consideration as part of the Council fee setting process.

2 RECOMMENDATIONS

- 2.1 **That save for the private hire operator, and hackney carriage, home to school and private hire vehicle licence fees, that the Committee recommends to the Executive the new fees and charges detailed in Annex A, for public consultation.**
- 2.2 **That the Committee agrees that the proposed charges for operators and vehicle licence fees are:**
 - a) **advertised;**
 - b) **if no objections are received, implemented as from 1 April 2014; or**
 - c) **if objections are received they be if considered by the Committee at the meeting on 9 January 2014.**

3 REASONS FOR RECOMMENDATIONS

- 3.1 The recommendations recognise restrictions placed by statute, Council and legal guidance on the recovery of costs, and the possible impact upon local businesses of licence fees. The recommendations reflect, in the officer view, the best compromise given the parameters in place.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 There are a number of alternative options to consider, ranging from no increase to increases across the board. There are legislative restrictions upon the maximum charge that can be made or other legislation which restricts those elements of the service provided by a Licensing Authority that are chargeable and non chargeable through the provision of a licence. Officers in drawing up these proposed fees have done so with consideration of the legal constraints in place.

5 SUPPORTING INFORMATION

- 5.1 The Council has given guidance that fees and charges should be increased on average by 2.2%. A significant number of fees within the licensing field are set by Government regulation and cannot therefore be changed by the Council.
- 5.2 The appendices attached to the report include the charges relevant to this Committee for the current year, alongside proposed changes for 2014/15. These proposed charges have taken into account guidance on fee setting by the Council, legislation and impact upon the business community. To allow for easy collection all charges are rounded to the nearest £1.00.
- 5.3 Charges for casinos and other gambling establishments under the Gambling Act 2005 are set at 75% of the statutory maximum. The statutory fee has not changed since first implemented by regulation in 2007. Given the nature of the premises within the Borough and the workload associated with them officers are of the view that fees at their present levels are appropriate for cost recovery. To set fees at a higher level could invite a challenge under the legislation that they are excessive.
- 5.4 Fees charged for the licensing of hackney carriages, home to school and private hire vehicles and operators are required by Section 70 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 on the 9 January 2014. These fees would then be included within the Council process for final adoption as part of the overall Council fees and charges process.
- 5.5 Fees under the Licensing Act 2003 have remained virtually the same since 2005 when the legislation was implemented. The fees are set by regulation and there have been many consultations and promises that the fee structure will be changed to more closely match the actual costs incurred by the Council. No changes have been implemented and there is no indication at this time that any change is imminent.
- 5.6 Since 1 April 2013, applicants for home to school driver licences have been required to take a knowledge test as with other private hire driver licence applicants. The fee for processing a new home to school driver licence application is therefore proposed for increase to the same level as other driver licences, as the same amount of administrative work is required. The fee to renew the driver licence and for home to school vehicles will remain at a lower level than standard private hire licences as there is an expectation that the Council's Home to School Transport team will carry out the majority of the enforcement relating to home to school drivers and vehicles.
- 5.7 Members will note a significant increase in respect of the fee to change of a driver licence type. This was a new fee introduced in April 2013 to cater for drivers who wish to convert to a new licence type. The fee is required to be increased to ensure the full costs of the new badge, new licence and the knowledge test are covered.

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 6.1 The legal provisions are contained within the report.

Borough Treasurer

- 6.2 For planning purposes it has been assumed that income from fees and charges will increase in line with the Council's general inflation forecasts i.e. averaging 2.2% over the three year planning period.

Equalities Impact Assessment

- 6.3 There are no direct consequences in this report for any group.

Strategic Risk Management Issues

- 6.4 There are no issues to consider.

7 CONSULTATION

Principal Groups Consulted

- 7.1 There are certain legal provisions requiring consultations and these will be conducted. The remaining fees and charges will be subject to the Council consultation process.

Method of Consultation

- 7.2 See paragraph 5.4.

Representations Received

- 7.3 No process undertaken at the time of writing the report.

Background Papers

None

Contact for further information

Robert Sexton, Environment and Public Protection - 01344 352580
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**ENVIRONMENT, CULTURE & COMMUNITIES DEPARTMENT
2014/15 PROPOSED FEES & CHARGES**

Annex A

Service : Licensing
Purpose of the Charge: To recover the cost of processing applications and monitoring compliance with conditions

	2013/14 Budget	Proposed 2014/15 Budget
	£'000	£'000
Income the proposed fees will generate:	233	

Are concessions available? No
Link to the Council's Medium Term Objectives: To create a Borough where people are safe and feel safe.

LICENSING ACT 2003

The fees for all Licensing Act 2003 permissions are statutory fees set by central government.

Fees for new and variation applications for premises licences and club premises certificates are based on the rateable value of the premises and are as set out below:

Description	Current Fee (Exc VAT)	Proposed Fee (Exc VAT)
Rateable value band		
A	100.00	Set by Statute
B	190.00	Set by Statute
C	315.00	Set by Statute
D	450.00	Set by Statute
E	635.00	Set by Statute

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

Rateable value band		
D	900.00	Set by Statute
E	1,905.00	Set by Statute

Also, new or variation applications for premises licences and club premises where capacity will exceed 5000, are subject to an additional fee as set out below:

Number of people in attendance at any one time		
5,000 - 9,999	1,000.00	Set by Statute
10,000 - 14,999	2,000.00	Set by Statute
15,000 - 19,999	4,000.00	Set by Statute
20,000 - 29,999	8,000.00	Set by Statute
30,000 - 39,999	16,000.00	Set by Statute
40,000 - 49,999	24,000.00	Set by Statute
50,000 - 59,999	32,000.00	Set by Statute
60,000 - 69,999	40,000.00	Set by Statute
70,000 - 79,999	48,000.00	Set by Statute
80,000 - 89,999	56,000.00	Set by Statute
90,000 and over	64,000.00	Set by Statute

Premises licences sought for community centres and some schools that permit regulated entertainment but which do not permit the supply of alcohol and/or the provision of late night

**ENVIRONMENT, CULTURE & COMMUNITIES DEPARTMENT
2014/15 PROPOSED FEES & CHARGES**

Annex A

OTHER FEES

There are other occasions that fees and charges must be paid to the Licensing Authority, as set out below:		
Description	Current Fee (Exc VAT)	Proposed Fee (Exc VAT)
Personal Licence Application	37.00	Set by Statute
Supply of copies of information contained in register	10.50	Set by Statute
Application for copy of licence or summary on theft, loss etc. of premises licence or summary	10.50	Set by Statute
Notification of change of name or address (holder of premises licence)	10.50	Set by Statute
Application to vary licence to specify an individual as designated premises supervisor	23.00	Set by Statute
Interim Authority Notice	23.00	Set by Statute
Application to transfer premises licence	23.00	Set by Statute
Application for making a provisional statement	315.00	Set by Statute
Application for copy of certificate or summary on theft, loss etc. of certificate summary	10.50	Set by Statute
Notification of change of name or alteration of club rules	10.50	Set by Statute
Change of relevant registered address of club	10.50	Set by Statute
Temporary Event Notices	21.00	Set by Statute
Application for copy of notice on theft, loss etc. of temporary event notice	10.50	Set by Statute
Application for copy of licence on theft, loss etc. of personal licence	10.50	Set by Statute
Notification of change of name or address (personal licence)	10.50	Set by Statute
Notice of interest in any premises	21.00	Set by Statute
(Licensing Act 2003) Minor Variation	89.00	Set by Statute
(Licensing Act 2003) Removal of DPS Condition	23.00	Set by Statute

**ENVIRONMENT, CULTURE & COMMUNITIES DEPARTMENT
2014/15 PROPOSED FEES & CHARGES**

Annex A

ANNUAL FEES

Where premises licences and club premises certificates are issued, the holder shall pay an annual fee as set out below:

Description	Current Fee (Exc VAT)	Proposed Fee (Exc VAT)
Rateable value band		
A	70.00	Set by Statute
B	180.00	Set by Statute
C	295.00	Set by Statute
D	320.00	Set by Statute
E	350.00	Set by Statute

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

Description	Current Fee (Exc VAT)	Proposed Fee (Exc VAT)
Rateable value band		
D	640.00	Set by Statute
E	1,050.00	Set by Statute

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

Number of people in attendance at any one time		
5,000 - 9,999	500.00	Set by Statute
10,000 - 14,999	1,000.00	Set by Statute
15,000 - 19,999	2,000.00	Set by Statute
20,000 - 29,999	4,000.00	Set by Statute
30,000 - 39,999	8,000.00	Set by Statute
40,000 - 49,999	12,000.00	Set by Statute
50,000 - 59,999	16,000.00	Set by Statute
60,000 - 69,999	20,000.00	Set by Statute
70,000 - 79,999	24,000.00	Set by Statute
80,000 - 89,999	28,000.00	Set by Statute
90,000 and over	32,000.00	Set by Statute

**ENVIRONMENT, CULTURE & COMMUNITIES DEPARTMENT
2014/15 PROPOSED FEES & CHARGES**

Annex A

GAMBLING ACT 2005

Description		Current Fee (Exc VAT)	Proposed Fee (Exc VAT)
Bingo Club	New Application	2,625.00	Set by Statute
	Variation	1,312.50	Set by Statute
	Transfer/Reinstatement	900.00	Set by Statute
	Application with Prov Statement	900.00	Set by Statute
	Prov Statement	2,625.00	Set by Statute
	Notification of Change	37.50	Set by Statute
	Annual Fee	750.00	Set by Statute
	Copy Licence	18.75	Set by Statute
Adult Gaming Centre	New Application	1,500.00	Set by Statute
	Variation	750.00	Set by Statute
	Transfer/Reinstatement	900.00	Set by Statute
	Application with Prov Statement	900.00	Set by Statute
	Prov Statement	1,500.00	Set by Statute
	Notification of Change	37.50	Set by Statute
	Annual Fee	750.00	Set by Statute
	Copy Licence	18.75	Set by Statute
Betting (Other)	New Application	2,250.00	Set by Statute
	Variation	1,125.00	Set by Statute
	Transfer/Reinstatement	900.00	Set by Statute
	Application with Prov Statement	900.00	Set by Statute
	Prov Statement	2,250.00	Set by Statute
	Notification of Change	37.50	Set by Statute
	Annual Fee	450.00	Set by Statute
	Copy Licence	18.75	Set by Statute
* Licensed Premises Gaming Machine Permit			
	New	150.00	Set by Statute
	Annual Fee	50.00	Set by Statute
	Variation	100.00	Set by Statute
	Transfer	25.00	Set by Statute
	Copy Permit	15.00	Set by Statute
	Change Name	25.00	Set by Statute
**Club Gaming/Permit/Club Machine Permit			
	New	200.00	Set by Statute
	Annual Fee	50.00	Set by Statute
	Renewal	200.00	Set by Statute
	Variation	100.00	Set by Statute
	Copy Permit	15.00	Set by Statute
	Notification of 2 or less gaming machines	50.00	Set by Statute
Registration of non-commercial lottery			
	Initial Fee	40.00	Set by Statute
	Annual Fee	20.00	Set by Statute

* Where the applicant for a LPGMP is the holder of a s.34 permit issued under the Gaming Act 1968, the fee for a new permit shall be £100.

** Where the applicant for a club gaming or club machine permit is the holder of a Club Premises Certificate under s.72 of the Licensing Act 2003, or an existing Part II or Part III registration of the Gaming Act 1968, the fee for new permits and renewals is £100.

**ENVIRONMENT, CULTURE & COMMUNITIES DEPARTMENT
2014/15 PROPOSED FEES & CHARGES**

Annex A

Description	Current Fee (Exc VAT)	Proposed Fee (Exc VAT)	% Increase
Home Boarding of Dogs: Annual Licence			
Initial	132.00	135.00	2.3
Renewal	111.00	113.00	1.8
Dog Breeders: Annual Licence			
Initial	440.00	450.00	2.3
Renewal	200.00	204.00	2.0
Pet Shops: Annual Licence			
Initial	440.00	450.00	2.3
Renewal	200.00	204.00	2.0
Performing Animals: Single Payment			
Registration	90.00	92.00	2.2
Zoo: Annual Licence			
Initial/Renewal	440.00	450.00	2.3
Hairdresser: Single Payment			
Premises	38.00	39.00	2.6
Street Trading Consents			
Week (minimum charge)	123.00	125.00	1.6
1 month	328.00	335.00	2.1
3 months	770.00	787.00	2.2
6 months	1,260.00	1,287.00	2.1
6 months max trading 2 events per week including Fri,Sat,or	712.00	728.00	2.2
6 months max trading 2 events per week Monday to Thursday	475.00	485.00	2.1
Street trading consent variation fee	80.00	82.00	2.5
Ice cream vans 1 month (per van)	164.00	167.00	1.8
Ice cream vans 6 months (per van)	630.00	644.00	2.2
Motor Salvage Operator and Scrap Metal Dealer: (legislation repealed - new fees to be confirmed)			
Motor salvage operator and scrap metal dealer licence	122.00	N/A	

**ENVIRONMENT, CULTURE & COMMUNITIES DEPARTMENT
2014/15 PROPOSED FEES & CHARGES**

Annex A

OTHER PREMISES LICENSING				
Description	Current Fee (Exc VAT)	Proposed Fee (Exc VAT)	% Increase	
Sex Establishment: Annual Licence				
Premises - Initial	2,420.00	2,473.00	2.2	
Premises - Renewal	1,285.00	1,313.00	2.2	
Dangerous Wild Animal: Annual Licence				
Premises - Initial	430.00	440.00	2.3	
Premises - Renewal	250.00	255.00	2.0	
Riding Establishment: Annual Licence				
Premises - Initial	465.00	475.00	2.2	
Premises - Renewal	242.00	247.00	2.1	
Provisional - Initial	271.00	277.00	2.2	
Provisional - Renewal	139.00	142.00	2.2	
Animal Boarding Establishment: Annual Licence				
1 - 30 animals	Initial	367.00	375.00	2.2
	Renewal	215.00	220.00	2.3
31 - 60 animals	Initial	433.00	442.00	2.1
	Renewal	233.00	238.00	2.1
61 (or more) animals	Initial	526.00	538.00	2.3
	Renewal	285.00	291.00	2.1

**ENVIRONMENT, CULTURE & COMMUNITIES DEPARTMENT
2014/15 PROPOSED FEES & CHARGES**

Annex A

HACKNEY CARRIAGES			
Description	Current Fee (Exc VAT)	Proposed Fee (Exc VAT)	% Increase
Hackney Carriages Vehicle: Annual Fee			
Licensing (annual fee)	256.00	261.00	2.0
Private Hire Vehicle: Annual Fee			
Licensing (annual fee)	256.00	261.00	2.0
Home to School (annual fee)	130.00	133.00	2.3
Operator Licence: Annual Fee			
1 vehicle	165.00	169.00	2.4
2 - 5 vehicles	287.00	293.00	2.1
6 - 10 vehicles	481.00	492.00	2.3
11 - 15 vehicles	666.00	680.00	2.1
16 - 20 vehicles	902.00	922.00	2.2
more than 20 vehicles	1,086.00	1,110.00	2.2
Operator Licence: 3 year Licences- (20% discount on annual fee)			
1 vehicle	396.00	405.00	2.3
2 - 5 vehicles	697.00	712.00	2.2
6 - 10 vehicles	1,155.00	1,180.00	2.2
11 - 15 vehicles	1,599.00	1,634.00	2.2
16 - 20 vehicles	2,165.00	2,212.00	2.2
more than 20 vehicles	2,607.00	2,664.00	2.2
Driver Licences			
Initial (all driver licence types)	133.00	136.00	2.3
Renewal	102.00	104.00	2.0
Renewal (3 years- 33% discount on annual fee)	205.00	210.00	2.4
Home to school renewal only	82.00	84.00	2.4
Other Charges			
Transfer of vehicle to new owner	44.00	45.00	2.3
Conversion of driver licence to another type	60.00	72.00	20.0
Change of vehicle	66.00	67.00	1.5
Transfer of operator licence	44.00	45.00	2.3
Meter Test - Retest after failure	28.00	29.00	3.6
Knowledge Test	28.00	29.00	3.6
First Aid Training for drivers	24.00	25.00	4.2
CRB Check	At cost	At cost	
Administrative charge for CRB check	12.00	12.00	0.0
Replacement documents	22.00	22.00	0.0
Advertising on Hackney Carriages (Initial)	34.00	35.00	2.9
Advertising on Hackney Carriages (Renewal)	24.00	25.00	4.2
Replacement Badge	21.00	21.00	0.0
Replacement plate	25.00	25.00	0.0
Replacement backing plate	20.00	20.00	0.0
Medical exemption from carrying assistance dog	19.00	20.00	5.3

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

**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 seek approval to go out to consultation on an amended version of the Council's Guidance Notes and Conditions document.

2 RECOMMENDATIONS

2.1 That the Committee:

- i) **approves the amended Guidance Notes and Conditions document at Annex A for consultation, and**
- ii) **requires officers to bring back a report to the next meeting on the results of that consultation.**

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 document at this stage prior to the consultation.

5 SUPPORTING INFORMATION

- 5.1 Attached at Annex A are the proposed new Guidance Notes for 2014. In addition to updating dates, the material changes are as follows:

- A proposed revised policy in respect of tinted windows in licensed vehicles detailed at paragraphs 11.10 - 11.12
- Clarification of the process required if a private hire operator wishes to move base as detailed at paragraph 30.5.

- 5.2 The consultation will run from 14 October to 11 December and a further report will be brought to Committee on 9 January 2014 for consideration of any comments received.

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 will be consulted.

Method of Consultation

- 7.2 It is proposed that the proposed new Guidance will be published on the Council's website for the purposes of the consultation. Hard copies will also be available on request. Details of the consultation will be included in a newsletter which is sent to all licence holders.

Representations Received

- 7.3 Not applicable at this stage.

Background Papers

Guidance Notes and Conditions for Hackney Carriage and Private Hire Vehicle Owners, Operators and Drivers (April 2013)

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**

January 2014

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Guidance Notes and Conditions for Hackney Carriage and Private Hire Vehicle Owners, Operators, Drivers January [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.

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. 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.

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 first licensed prior to August 2001 who have not attended a First Aid Course run by the Council must do so by April 2011, unless they can provide proof that they have passed a recognised First Aid course within the last 5 years.

BF(LC)

5.16 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)

5.17 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)

5.18 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

5.19 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)

5.20 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

5.21 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 he is 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 be of the four-door saloon or five-door estate type and must be capable of carrying not less than 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 2009, all vehicles issued with a new licence must comply with the following minimum requirements:

- (i) Engine capacity 1550cc
- (ii) Seat width 16" (41cm)
- (iii) Rear height (seat to roof from point of contact between cushion and back of seat) 30" (76cm)
- (iv) Depth of seat 17" (43cm)
- (v) Knee space (from point of contact between cushion and back of seat to the back of the seat in front) 26" (66cm)

BF(LC)

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 will ensure that applicants will 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 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 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 from Reception or at 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 The vehicle shall be of the 4-door executive class with an engine capacity of not less than 1950cc, and be approved by the Council as being eligible for dispensation. The internal measurement must not be less than **52” (132cm)** across the rear seat. All other conditions shall apply.

*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 New regulations governing the use of child car seats came into force on 18 September 2006. The law is summarised as follows:

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

	Front seat	Rear seat	Who is responsible?
Child over 135cm in height (approx 4' 5") or 12 and 13 years old	Seat belt MUST be worn if available.	Seat belt MUST be worn if available.	Driver
Passengers aged 14 years old and over	Seat belt MUST be worn if available.	Seat belt MUST be worn if available.	Passenger

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

Write to:

Licensing Section, Time Square, Bracknell, RG12 1JD

Find us online:

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 hoot 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 scores 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

Contraventions	Points	✓	Contraventions	Points	✓
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**

Section	Offence
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**

Section	Offence
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

Section	Offence
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.

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

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

1 PURPOSE OF REPORT

- 1.1 The Council has responsibility for the enforcement of health and safety in private sector businesses in the Borough.
- 1.2 This report sets out the basic framework within which a mandatory service is provided. It provides details of the work plan for 2013-2014 and the outturn for 2012/13 in Part 2 .The work plan for 2013-2014 was seen and approved by Members at Committee on 1 May 2013 and suggested amendments have been incorporated. The Enforcement Plan is required for Bracknell Forest to comply with Section 18 of the Health and Safety at Work etc Act 1974.

2 RECOMMENDATION(S)

2.1 That the Committee

- i) **approves for publication the Health and Safety Law Enforcement Plan for 2013-14**
and
- ii) **notes the outturn report for 2012-13 as set out in Part 2**

3 REASONS FOR RECOMMENDATIONS

- 3.1 The Plan sets out how the Council will seek to work with businesses comply with health and safety requirements and work in conjunction with the HSE.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 None. The production and publication of an annual Enforcement 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 (LA's). Within Bracknell Forest enforcement is a function undertaken by staff within Regulatory Services.
- 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 bi-annually to the HSE. The Executive has powers to intervene should there be a shortfall in performance.

- 5.3 The Committee approved the proposed Work Plan at its meeting on the 1st May. The Committee are now being asked to approve the full plan drawn up in accordance with Section 18 of the Health and Safety Act for adoption and publication upon the Council website.
- 5.4 The HSE recently produced new guidance for LAs under Section 18 of the 1974 Act; the 'National Local Authority Enforcement Code'. This new code aims to simplify the requirements placed on LAs and also identifies high risk sectors that should become the focus of our activities. The code focuses on undertaking full inspections only where the risk is very high, within ones of the identified sectors, or other intelligence suggests a full inspection is necessary. As this was only published in late May we are currently determining the full impact of these new requirements but in essence it confirms actions that we have already been implementing to reduce the inspectional burden upon local businesses.
- 5.5 A key theme of the Plan is to continue to develop targeted health and safety activity working in partnership with local business and the HSE. We will continue to seek to support self regulation by adopting and encouraging a common sense approach to health and safety. This year's Plan has been populated with targets and initiatives under 3 main headings i.e. (i) Protecting Consumers and Supporting Businesses, (ii) Project Working and (iii) Performance Management. The portfolio of work is based upon national accident data combined with local intelligence so to identify those areas of concern both for businesses and the public. Visits to businesses will where possible encompass multiple regulatory functions through a single visit in order to seek to minimise the burden to businesses.
- 5.6 Looking at the work we did last year, the overall level of work was similar although there have been some changes in the type of work we did. In accordance with central Government guidance we have reduced the number of proactive visits we undertake. This changing pattern is also reflected in the lower levels of Notices served, which frequently arise following routine interactions. However we also saw higher levels of complaints and enquiries, and more concerning is a slight rise in serious deficiencies that presented imminent risks to health and safety and required formal prohibition notices to prevent the dangerous equipment or situation from continuing. Whilst the pattern is far from clear, it is likely that this changing pattern will continue, with a greater level of reactive complaint and accident work, rather than proactive inspections.

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 2013-2014 is covered by the overarching document entitled Enforcement Policy 2013.

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 an adverse inspection report followed by intervention.

7 CONSULTATION

Principal Groups Consulted

7.1 The nature of the Plan is such that we seek feedback from stakeholders after its adoption and publication. 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

HELA Strategic Plan 2000-2004

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

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

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

Health and Safety Law Enforcement Plan 2012-13

HSE CODE GUIDANCE UNDER SECTION 18

Contact for further information

Robert Sexton

Head of Regulatory Services

01344 352580

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Document Reference

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**HEALTH AND SAFETY ENFORCEMENT
PLAN 2013-2014**

(inc 2012 – 2013 OUTTURN)

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

Tel: 01344 352000

Fax: 01344 351141

Email: environmental.health@bracknell-forest.gov.uk

PART 1 – THE PLAN FOR 2013 - 2014

Introduction

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. 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.

This plan is produced as part of these responsibilities under Section 18 of this Act, in which Section 18 places a duty on the Health and Safety Executive (HSE) and Local Authorities (LAs) to make adequate arrangements for enforcement, including details such as service planning, the officer capacity required to enforce in the Borough and the competency of those officers.

The HSE recently produced new guidance for LAs under Section 18 of the 1974 Act; the 'National Local Authority Enforcement Code'. This new code aims to simplify the requirements placed on LAs and also identifies high risk sectors that should become the focus of our activities. The code focuses on undertaking full inspections only where the risk is very high, within ones of the identified sectors, or other intelligence suggests a full inspection is necessary. As this was only published in late May we are currently determining the full impact of these new requirements.

Bracknell Forest Council Context

The Health and Safety 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 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.

Moreover, the plan additionally directly links the health and safety service areas with the identified Regulatory Service Priorities¹.

With the incorporation of Public Health into Bracknell Forest Council's remit, key projects, such as Legionella control, 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.

We additionally aim to work with external partners where relevant and productive. Bracknell Forest Council have signed a 'Statement of Intent' as part of the Local Authorities and HSE Working Together Strategic Programme confirming our commitment to working in closer partnership with the HSE to tackle national, regional and local priorities in a more effective and focused manner.

¹ Details of the Regulatory Service Priorities is provided on page 12

The National Context

Since Lord Young's 2010 report (Common Sense - Common Safety) there has been an increased focus on promoting a common sense approach to health and safety. In combination with the 'Hampton' report in 2005, there is a strong and supported focus to ensure that all health and safety enforcement work is undertaken in a proportionate manner to tackle risk, whilst reducing the burden on business wherever possible. These aims are not at odds with Bracknell Forest Councils own vision, priorities and objectives.

Supporting this national direction, the concept of Primary Authority was formalised under the Regulatory Enforcement and Sanctions Act 2008. Under this legally recognised scheme (overseen by the Better Regulation Delivery Office), any business operating across more than one Local Authority can form a formal partnership, effectively forming a focus for consistent advice. Whilst Bracknell Forest Council acts as Primary Authority for a number of businesses, at the present time none of these relate to health and safety matters, although we will be working to develop this during the coming year. All of our health and safety work is however mindful of this scheme, and any relevant businesses within a partnership.

The Better Regulation Delivery Office (BRDO) has additionally developed national Priority Regulatory Outcomes², which provide a focus point for all of our regulatory work, including health and safety. The health and safety plan directly links the health and safety service areas with these Priority Outcomes.

Our Health and Safety Focus

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

- 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.

² The BDRO Priority Regulatory Outcomes are detailed on page 12

The Specifics for Health and Safety within Bracknell Forest Borough

Bracknell Forest Council has responsibilities in respect of **1457** 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	394
Wholesale shops, warehouses and fuel storage depots	40
Offices	402
Catering, restaurants and bars	237
Hotels, camp sites and other short stay accommodation	22
Residential care homes	31
Leisure and cultural services	112
Consumer services	208
Other premises	11
Total	1457

Commercial Team Officers within the Regulatory Services Section deal with the main aspects of workplace safety related matters and undertake programmed risk based inspections, reactive inspections, investigating reports of accidents/ill-health under RIDDOR (Reporting of Injuries, Diseases and Dangerous Occurrences Regulations). 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. Licensing officers undertake some premises inspections according to their skill set in low risk premises and Trading Standards staff have a role related mainly to matters of the safe storage and sale of fireworks and petroleum. We are always striving 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.

All officers are authorised to carry out work according to qualification and competence. The aim is to focus resources on the areas where research and intelligence suggests we will have the greatest impact in terms of reducing work-related injury and ill health. Across the Regulatory Services Section on average approximately **1.5 FTE's** time is spent on health and safety matters a year.

Procedures are in place to scrutinise all the work that is undertaken by the officers. Our quality monitoring includes detailed practice notes, checks on data entry and officer consistency. We additionally annually 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 aim to make full use of the skills that exist in the Section as a whole and develop those skills through updates, shadowed working and internal, external and cascade training. A record of continuous development is maintained for all officers and all staff are subject to a formal appraisal each year with interim review meetings. Part of this appraisal process is the development of a training needs analysis for staff. 'Continuing Professional Development' (CPD) training is provided for all staff to ensure that they maintain their level of competence. A list of training received by officers in the previous year is set out in the outturn report. We additionally work with our neighbours within Berkshire to help ensure consistency across geographical boundaries, including benchmarking and attending meetings with other

Berkshire Authorities to help ensure consistency and joined-up project work wherever possible.



Over recent years we have moved the emphasis from full inspections of premises purely on a risk based inspection programme to participation in national campaigns tailored to target local and regional priority topics. Full inspections are restricted to those premises where activities represent the highest risk (as determined by officers following national guidance after inspection) and regular full inspections are carried out only of our A category premises with alternative interventions for lower risk premises, combined with targeting projects of local or national relevance. The newly published Section 18 guidance from the HSE (National Local Authority Enforcement Code) additionally identifies a number of high risk sectors that should be prioritised for inspection.

Our Health and Safety Plan

This plan aims to ensure a graduated approach based on risk. It reaffirms our commitment to carry out our duties in a proportionate, open, fair and consistent manner that promotes economic development (in accordance with MTO 9). This Plan sets out details of what we plan to do this year and how we intend to do it. Our key priorities when it comes to workplace safety are to work with business to:

- Provide advice and information to Bracknell Forest businesses and residents
- Inspect businesses 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 listen and respond to concerns raised
- Investigate accidents, giving priority to those involving major 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

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. However, firm action, including prosecution, will be taken where appropriate. We aim to ensure that employers minimise the risks of accident, injury and ill health to their employees and customers, and address employee welfare issues. This Health and Safety Law Enforcement Plan sets out the actions we are taking to promote health and safety for the benefit of residents, employees and businesses that operate in our Borough.

Our activities for 2013/2014 (beginning on page 7) are planned following consideration of the HSE's delivery portfolio which is based on analysis of injury and ill health generated from known hazards at work. It aims to reduce injury and days lost from ill health and accidents. In summary in 2013/14 we plan to:

- inspect all high-risk businesses (risk rated A) and high risk sector activities identified by the National Local Authority Enforcement Code
- focus our work on priority topics identified by the HSE and carry out **169** topic-based inspections
- develop further our partnership working with the Health & Safety Executive with joint warranting.

The table over the page shows targeted or programmed inspections for the highest risk premises, rated A. All lower risk premises (risk rated B1 and B2) will be subject to “alternative intervention strategies” rather than inspections. This will include postal questionnaires, project based visits and the issue of specific publicity material. In a typical year some low risk premises are likely to be brought back into the formal inspection process following complaints and accident investigations, although where the premises are to be visited for other statutory inspection purposes, both visits will if possible be combined.

Table 1

	A	High Risk Activities	B1/B2		Fit3		
Targeted 2009/2010	6	-	27		161		
Targeted 2010/2011	3	-	28		208		
	A		B1	B2	Topic Led	C rated	Unrated
Targeted 2011/2012	6	-	3	26	195	169	250
Targeted 2012/13	15	-	24	29	175	165	200
Targeted 2013/14	11	15 ³	55	46	169	166	110

In addition there currently remains approximately **830** C-rated premises in the area. Although these are of insufficient risk to be included in the inspection cycle, they have previously been targeted with questionnaires or relevant information to raise awareness in relation to health and safety and will continue to be approached in that manner. HSE guidance advises that 20% of these must be targeted each year, resulting in an additional **166** interventions. All new premises will be brought into the inspection cycle based on the risks presented by their activities.

A further **169** topic led inspections will be made to premises based on the suitability of project intervention. These include catering premises in respect of gas safety and ventilation, legionella control and disease reduction at premises potentially exposing staff and others to asbestos. Details of these are provided in the attached plan.

Variations from the Plan

Departures from the Health & Safety Enforcement Plan will inevitably occur due to the reactive nature of some of the areas of work (e.g. accidents and complaints). However, departures will be kept to a minimum, capable of justification and be fully considered by the Head of Service before varying action is taken. Performance reports are presented as key

³ The new National Local Authority Enforcement Code identifies ‘high risk activities’. Although the full impact has not been ascertained it is anticipated to involve an additional 15 inspections.

performance indicators monthly and quarterly with comments where performance exceeds or fails to meet targets. This information will then be fed back into the development of other service plans.

Further Information

If you would like any further information or advice about this plan or the service that the Environment and Public Protection Division provides in relation to Health and Safety, please contact us:

Environment, Culture & Communities Department
Bracknell Forest Council
Time Square
Market Street
Bracknell
RG12 1JD

Tel: 01344 352000

Fax: 01344 351141

Email: customer.services@bracknell-forest.gov.uk

Or look on our website at: www.bracknell-forest.gov.uk/healthandsafetyatworkinvestigation

Officers can be contacted through our Customer Service Centre which is open from 8.30am to 5.00pm Monday to Friday

Other Useful Contacts

www.hse.gov.uk - The Health and Safety Executive website, which has an enormous amount of invaluable information on health and safety. The local HSE office is at:

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

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.

www.riddor.gov.uk - for a full list of reportable major injuries, diseases and dangerous occurrences and when and how they must be reported.

www.workplacehealthconnect.co.uk - free practical advice on workplace health and safety designed to help SMEs, that is Small and Medium Enterprises.

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

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National Priority	Council Priority	MTO	Regulatory Services Priority	Service Priority	Service Action	Outcome measure	Priority
Protecting Consumers, Supporting Business							
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	High
1	4		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"> • Free up officer time from developing campaigns and allow more contact time with businesses • Low cost publicity and support material by use of nationally produced resources and publicity • Impact on the health of the community and the strength of the local economy by targeting areas of identified significant risk 	Incorporate into specific projects	High
4	4	6 & 8	4	To investigate accidents reports via RIDDOR or direct.	To ensure a common, proportionate, transparent and targeted approach for the selection and investigation of accidents and incidents, BFBC's selection criteria will be based on the HSE's HELA guidance LAC 22/13	Incidents allocated via worksheet generation in M3 to officers	High

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	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 Maintain up-to-date health and safety pages on the Council's website.	Incorporate into specific projects	Medium
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 all high risk (A rated or HSE high risk sector). 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) Offer support and advice to new businesses and 20% of all relevant C risk rated businesses in Bracknell Forest, in accordance with HSE guidance.	Visits to 26 high risk premises Use alternative inspection questionnaires for 101 B1 and B2 premises, unless further intervention is needed. Provide information to 166 low risk businesses.	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	Respond to 100% 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. Examine local trends and use as intelligence.	Respond to 100% requests from businesses and the public.	High
3	4	6 & 8	4	To reduce the number of accidents and incidents of ill health that occur within Bracknell	To ensure that effective investigations are carried out for 100% of all relevant notifications and to take prompt action to	Respond to 100% of all relevant accident notifications.	High

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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
				Forest	improve conditions and reduce likelihood of injury or ill-health re-occurring. Examine local trends in accidents reports and use as intelligence.		
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	Attend SAG meetings and provide support and information for Event Organisers.	Attend monthly meetings and attend events where expected attendees >500	Medium
Project Working – Focussing Resources							
4	4	6&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 5 sites	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 into routine inspections.	Attend removal works as appropriate.	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	Legionella Identify high risk sources and carry out visits to 16 duty holders.	Visit 16 premises - Potential sampling activities to be incorporated	High

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

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National Priority	Council Priority	MTO	Regulatory Services Priority	Service Priority	Service Action	Outcome measure	Priority
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	Golf Courses Non BFC. Focus on courses due to high risk grounds maintenance work activities	Visit 5 venues.	Medium
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	Commercial and recreational Water activity sites including swimming pools to address water quality and general safety standards.	Project will involve obtaining up-to-date risk assessments and recent sampling results to ensure appropriate interpretation and actions	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	Disease Reduction – Dermatitis. Focused interventions at florists, hairdressers, motor vehicle repair operators. Aim: to raise awareness and implement simple controls with follow up implementation support.	Visit 10 premises	Medium
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	Nail Bars Following on from successful project focussing on nail bars to address issues of poor local ventilation	Inspection of 10 premises.	Medium
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	Laser Treatments. Risk focused initiative on area of increased commercial activity - visits to 2 premises to test compliance levels	Inspection of 2 premises	High
4	4	6 & 8	1 & 4	To assist businesses to improve Health and Safety compliance	Noise at Work in Licensed Premises. Focus on noise levels affecting staff.	Joint working with EP + Licensing teams.	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
				levels and deliver improved public health outcomes through a programme of Intel led activities			
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	Gas Ventilation To be carried out jointly as part of food hygiene inspections in order to minimise multiple regulatory visits to businesses, with the use of a carbon monoxide monitor. Premises without an operational safety interlock to be targeted	75 gas safety and 50 ventilation visits, ensuring compliance. All visits to be combined with scheduled food safety visits where possible.	High
Performance Management							
	4	6 & 8	4	To maintain a quality service in accordance with Section 18 HSWA	Annual review (and update as necessary) of the S18 plan to demonstrate compliance with S18 Implementation of the agreed work plan, ensuring consistency of approach and maximised resources Continue to implement an in-house competency system for appointed officers. Review and up-to-date internal procedures Identification of staff training needs during appraisals, including: Regulators Development Needs Analysis tool (RDNA) Guidance for Regulators Information Point (GRIP)	Monthly monitoring of targets.	High

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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
					To ensure S18 compliance through consistency exercise training of officers.		
1	4	6&8	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.	Systems in place	Medium
1	4	6&8	4	To maintain officer competence for Flexible Warranting with HSE	Staff training and experiential learning. Ensuring competence in basic health and safety skills	Systems in place	High

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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.

BDR0 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.

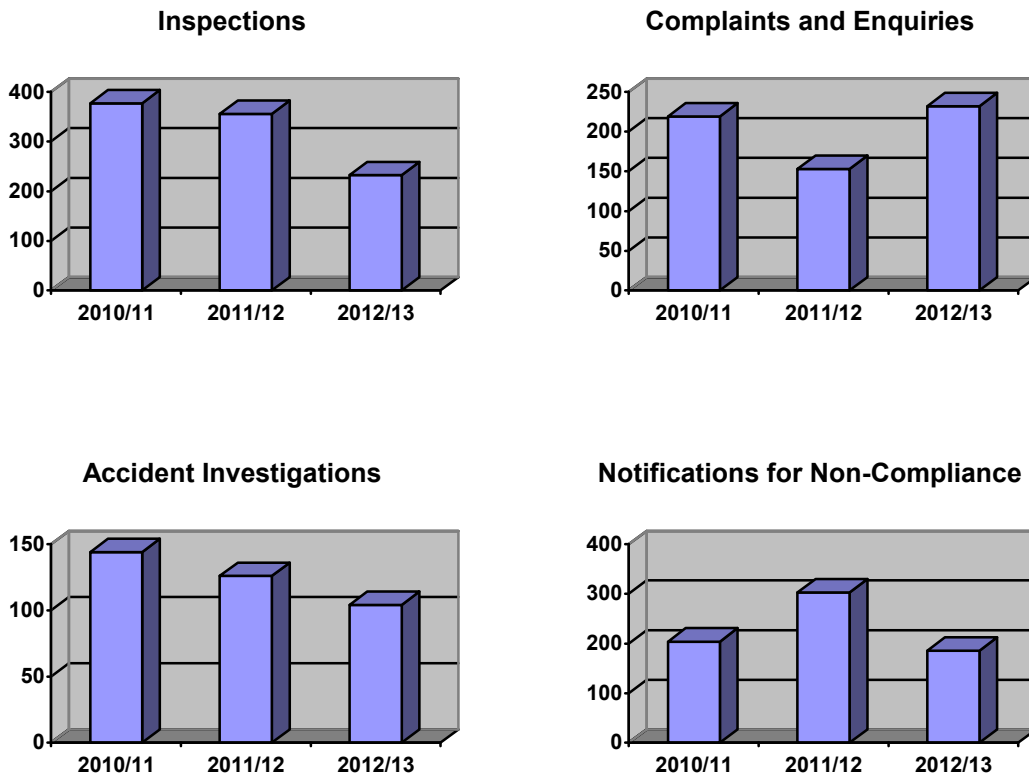
PART 2 – HEALTH AND SAFETY ENFORCEMENT OUT-TURN 2012 – 2013

HOW DID WE PERFORM?

In producing our Health and Safety Law Enforcement Plan each year we reflect on the previous years activities. This enables us to reflect on what went well and what went less well, and identify trends or key areas for focus moving forward. The health and safety enforcement activity undertaken during 2012/13 detailed below, although in summary:

- inspected **232** businesses and carried out **216** other related visits
- responded to **232** complaints and enquiries
- investigated **104** accident notifications
- issued formal notifications on how businesses can comply to **186** businesses, of which **14** were formal Notices

This activity can be compared with previous years:



Inspections and other interventions

In 2012/13 officers carried out a total of **448** health and safety inspections and visits:

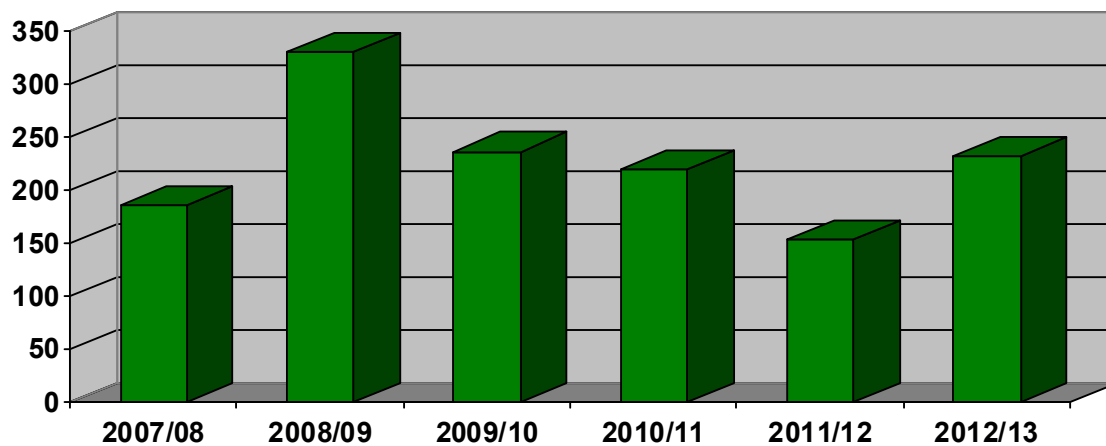
- **27** of these were programmed inspections and **205** were first visits to the business
- **26** were advisory visits
- **54** were revisits to follow up on issues of non-compliance
- **8** were visits in relation to accidents
- The remaining **128** visits were made up of both visits in response to complaints or enquiries from members of the public (**32**), visits where the business was identified as closed or not trading at that time (**81**), special treatments / smoke free visits (**14**) and **1** joint visit with the HSE.

Health and Safety Complaints and Enquiries



During 2012/13 there were **232** complaints and enquiries as shown below, regarding working conditions and practices. We aim to respond to all such enquiries within 2 working days, but if it is judged that the situation is serious then our response will be the same day. Some examples of the complaints we have dealt with are:

- Poor working conditions including lighting, seating, temperature
- Working practices
- Employment of young persons
- Fork lift truck operation
- Trip/slip hazards



Health and Safety Complaints and Enquiries

Accident Investigation



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/index.htm>. Notifications are then passed on to the relevant enforcement authority.

We review all accident notifications and investigate as appropriate, according to the 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 2012/13 officers received **99** notified accidents and dangerous occurrences.

- **42** accidents resulted in a member of the public being taken to hospital.
- **42** accidents resulted in injuries to an employee requiring an absence from work of more than 3 days.
- **8** major injuries
- **3** dangerous occurrences
- **4** reported accidents that once investigated were determined as non-reportable
- **0** fatalities

In order to allow a comparison with our Berkshire neighbours the data for the whole of Berkshire for 2012/13 is detailed below. 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*)	Major Injuries (rate per 100,000 population*)	Over 7 day injuries (rate per 100,000 population*)	Members of Public taken to Hospital (rate per 100,000 population*)	Total (rate per 100,000 population*)
Bracknell	0 (0)	8 (7.0)	42 (37.1)	42 (37.1)	99 (87.5)
Reading	1 (0.64)	34 (21.8)	56 (36.0)	102 (65.5)	210 (134.9)
RBWM	0 (0)	18 (12.5)	46 (31.8)	47 (32.5)	125 (86.5)
Slough	0 (0)	15 (10.7)	48 (34.2)	133 (94.9)	203 (144.8)
West Berks	0 (0)	27 (17.6)	42 (27.3)	53 (34.5)	125 (81.3)
Wokingham	0 (0)	11 (7.1)	30 (19.4)	28 (18.1)	81 (52.5)
Total	1 (0.17)	113 (13.1)	264 (30.6)	405 (47.0)	843 (97.8)

* 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 **843** accidents in 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*)	Other cause or cause not completed (rate per 100,000 population*)
Bracknell	35 (30.1)	12 (10.6)	12 (10.6)	35 (22.5)
Reading	82 (52.7)	20 (12.8)	26 (16.7)	49 (31.5)
RBWM	48 (33.2)	14 (9.7)	12 (8.3)	110 (76.1)
Slough	49 (34.9)	14 (10.0)	3 (2.1)	17 (12.1)
West Berks	40 (26.0)	14 (9.1)	11 (7.2)	30 (19.5)
Wokingham	33 (21.4)	11 (7.1)	4 (2.6)	24 (15.5)
Total	287 (33.3)	85 (9.9)	68 (7.9)	265 (30.7)

Whilst this data is useful to help identify the main causes, several accidents do not detail the actual cause, and this information for accidents occurring in other Local Authorities is not readily available.

Enforcement Action

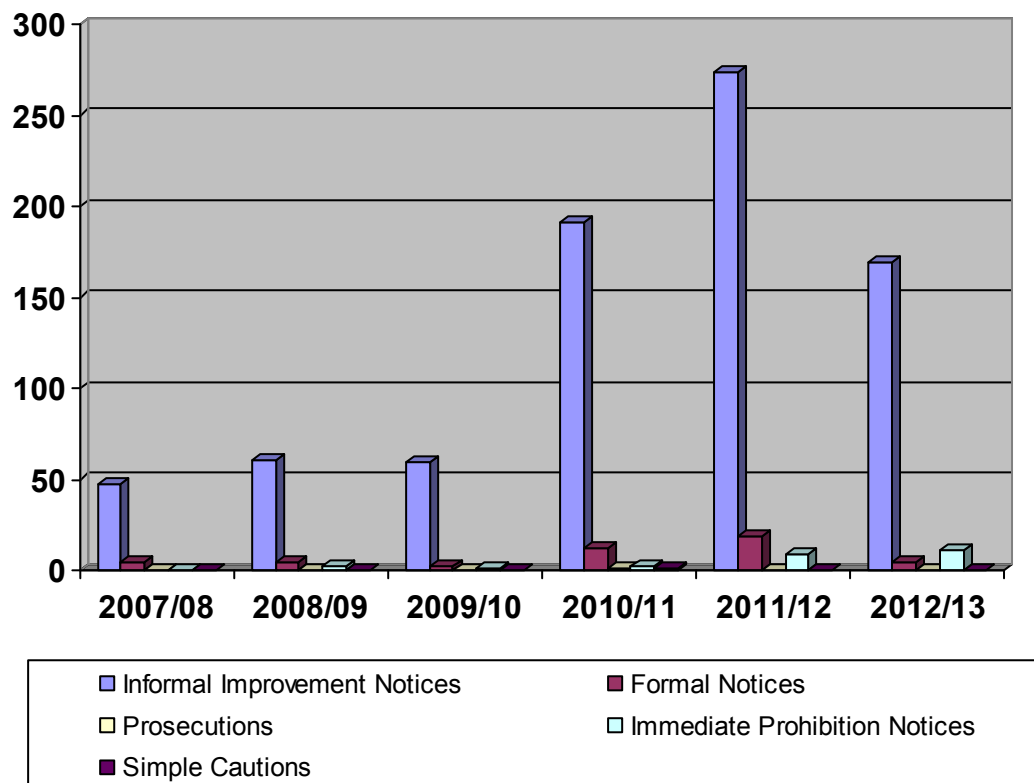


We have adopted a broad and comprehensive set of measures to protect consumers and promote health and safety, and we actively work with local business to achieve a balanced approach. We use the full range of enforcements options available to us, but wherever possible we use informal measures to achieve 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: www.bracknell-forest.gov.uk.

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

ENFORCEMENT ACTION	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13
Informal improvement notices	47	60	59	191	274	169
Formal notices	4	4	2	12	19	4
Prosecutions	0	0	0	1	0	0
Immediate Prohibition Notices	0	2	1	2	9	11
Simple Cautions	0	0	0	1	0	0
TOTAL	51	66	62	207	302	184



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, for 2012/13 this figure has been seen to reduce as we have made contact with many such businesses already. This pattern is set to continue.

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 2012/13.

Swimming Pools



Swimming pools within the Borough were sampled to assess for controls for controlling bacteria. This was a success, with only one premises failing the tests undertaken, and for this premise all necessary actions were promptly taken and the risks removed. It also features as a major public health intervention in ensuring effective monitoring of controls to reduce the likelihood of poor bacterial levels. 6 premises were inspected and sampled.

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 no notifications were received, no such visits were undertaken.

Database Updating



We continue to review and keep up to date our database to ensure that all Bracknell Forest Council enforced premises are subject to the health and safety programme. The on-going updates build on established informal information sharing opportunities with other teams within the Council to ensure that all new businesses are added to this programme regularly. With recent changes to Bracknell Town Centre we have seen an increase in business turnover.

Related Work Areas

Smokefree Bracknell Forest

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



A total of 7 complaints and enquiries were received relating to smoking during 2012/13 and all of these were resolved informally without the need for enforcement action. There is extensive 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 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. A total of 5 formal notifications for work involving areas known to contain asbestos were received, and all were appropriately investigated.



Staff Development 2012-13

Each officer is responsible for keeping a record of training undertaken and maintaining their own Continued Professional Development records. However following the appraisal process the following courses were attended during 2012-13:

- Electricity Safety
- Gas Cylinder Safety
- Accident Investigation Training
- Asbestos

The courses have enabled officers to further develop their knowledge and understanding in these areas and have assisted in identifying and tackling specific issues identified. For example, officers were able to provide detailed guidance to a local business that uses lasers for cosmetic purposes, and a local 'open-farm'. Greater awareness of gas safety issues in catering has enabled identification of some issues, which have led to enforcement action where those risks were significant. Such actions have secured the safety of both employees and customers.

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

**HOUSE TO HOUSE COLLECTIONS
Chief Officer: Environment and Public Protection**

1 PURPOSE OF REPORT

- 1.1 This report is brought to the Committee following an item raised in matters rising at the meeting on 1 May 2013 when members were advised of a decision by the Cabinet Office to allow an appeal by a textile collection company upon the refusal of Cardiff City Council to issue a House to House Collection Licence.
- 1.2 The report further informs members on the grounds and reasons for the decision and makes recommendations on how this decision should influence the policy presently adopted by Bracknell Forest to assess the granting of such applications.

2 RECOMMENDATION(S)

2.1 That the Committee agrees:

- i) That the current requirement for 80% of the proceeds of the collection to go to the charity be retained**
- ii) That officers review the information on the Council's website to ensure that residents receive clear information on local options for the recycling of textiles and other goods to assist residents make informed choices.**

3 REASONS FOR RECOMMENDATIONS

- 3.1 Like many other Councils in the country the decision of the Cabinet Office means that we have to reconsider our present practice. This is not considered to be a good decision when it comes to the interests of the contributing public as they would no longer be assured that the bulk of the revenue raised goes to the good cause they are supporting rather than the collecting organisation. The law, as submitted in paragraph 5.2 below, allows a Local Authority to make a decision on the amount to be used for a charitable purpose with an appeal mechanism to the Secretary of State. The decision by the Secretary of State is final in respect of the Cardiff applications, although a judicial review may have been considered.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The Council could accept applications where the percentage of proceeds that go to charity match those within the cases mentioned.

5 SUPPORTING INFORMATION

- 5.1 The House to House Collections Act 1939 governs the licensing of collections for a charitable purpose. The Council is the licensing body and subject to certain provisions the Licensing Authority must issue a licence upon receipt of an application. Failure to have a licence when carrying out a collection is a criminal offence.
- 5.2 A Licensing Authority may refuse to grant a licence where, amongst other matters:

Unrestricted

- i) the total amount likely to be applied for charitable purposes as the result of the collection is inadequate in proportion to the value of the proceeds as per section 2(3)(a);
 - ii) remuneration which is excessive in relation to the total amount aforesaid is likely to be, or has been, retained or received out of the proceeds of the collection by any person as person section 2(3)(b).
- 5.3 Where a Licensing Authority refuses to grant a licence they are required to give written notice to the applicant of the grounds. The applicant has a right of appeal to the Secretary of State and their decision shall be final.
- 5.4 In response to an appeal by Pen Y Bont Ltd to a decision by Cardiff City Council to refuse an application for a House to House collection the Cabinet Office upheld the appeal and instructed Cardiff City Council to issue a licence. This decision was also followed in a further appeal by Support Hollies Schools Ltd against a further decision by Cardiff City Council. It may have been possible for Cardiff City Council to seek a Judicial Review of the Secretary of State decision through an application to the High Court. Such applications are generally expensive in terms of legal costs. Cardiff City Council decided not to take such an action.
- 5.5 Pen Y Bont Ltd and Support Hollies School Ltd are both commercial textile collection companies who organise collections on behalf of charities. Plastic bags containing the details of a named charity are posted through residents' letter boxes and then collected a few days later by the collection company. These goods are then recycled in various ways and revenue generated. The charity receives a proportion of those proceeds. In the cases mentioned above the proportion of the proceeds donated to the charity on previous occasions was less than 9% and in one instance 6.4%.
- 5.6 The Cabinet Office has said that "having considered evidence from the commercial collectors, the charity and the local licensing authority, we did not regard the costs involved in carrying out these collections as unreasonable. Without these collections we would see thousands more tonnes of textiles going to landfill rather than being reused or recycled, and charities throughout England and Wales would be deprived of much needed income. If people want to maximise the amount that goes to a charity, an alternative would be to take their goods directly to their local charity shop."
- 5.7 Our current policy is to refuse applications which do not meet an 80% proceeds to a charitable cause criteria. Given the Cabinet Office decision we have already had other commercial textile companies asking the Council to reconsider decisions to refuse applications previous made. To refuse any new applications may lead to applicants considering an appeal to the Secretary of State on the grounds of this decision.
- 5.8 Textile products such as unused clothes are recyclable but according to a WRAP report in 2012 over 350,000 tonnes are sent to landfill each year and a further 80,000 tonnes are sent for incineration. In their view donating clothing for re-use or recycling could generate £140 million in revenue, thus giving recycled textiles a value of £400 per tonne. Given that the report also says that 540,000 tonnes are recycled this means this industry has an annual turnover of at least £216 million.
- 5.9 Figures available from our waste management staff indicate that each year around 1100 tonnes of recyclable textiles ends up going to landfill or incineration via the green bins at a cost of around £140 per tonne to the tax payer. It therefore is in our interests that every encouragement is given to residents to divert such unwanted

goods. We already capture around 220 tonnes a year at the recycling sites across the Borough and a further 100 tonnes is recovered at Longshot Lane. It is not possible to determine the quantity of textiles which are recycled through donations directly to charity shops or through doorstep collections but all clearly all have a role to play in keeping costs down and importantly helping the environment.

- 5.10 Doorstep collections probably play the lesser role in the current arrangements. An increase in commercial doorstep collections through a relaxation in the 80% rule could be seen as an opportunity for more such collections but it may also have the effect of displacing present clothes bank and charity shop donations which are vital sources of income for both local and national charities.
- 5.13 For our residents faced with making an informed decision as to choice it is proposed that we ensure that we use our website to best effect. Residents should be able to find out just how much of the value of the goods being collected is actually getting to the charity. The law governing House to House Collection licences still require the applicant to provide details of the percentage of total proceeds of the collection that will be given for charitable purposes. In addition it must provide details of the income from the collection and the money paid to a supporting charity. It is proposed that such information would be included within our pages whilst also detailing the various recycling options available locally.

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 6.1 The report sets out comprehensively what occurred in the Cardiff case. Any attempts to go against the Cardiff decision may entail the local authority in costly legal proceedings. It is noticeable that Cardiff was far from communicative when we sought information from them about the circumstances of the case and all we could obtain was a terse response. Although the decision impacts on all local authorities they were disinclined to be cooperative or share any background information or their reasons for not challenging the decision with us. From the information we have managed to obtain, the Cabinet Office appears to have been significantly influenced by the landfill costs and it should be noted that Cardiff and Swansea is the operational centre of many of the collection companies that organise these collections around the country. It may be that Cardiff has just spent too much time and energy on this issue and they took a commercial decision not to challenge the Cabinet Office decision. The current position is likely to eventually be resolved by judicial review involving one local authority or another as it is clearly an unsatisfactory situation to have arrived at. Notwithstanding the landfill costs the decision appears to fly in the face of the long held key principles and thinking relating to charities, charitable purposes and charitable collections

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 significant financial implications arising from the recommendation in this report.

Strategic Risk Management Issues

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

7 CONSULTATION

Principal Groups Consulted

- 7.1 Not applicable

Method of Consultation

- 7.2 Not applicable

Representations Received

- 7.3 Not applicable

Contact for further information

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

**HACKNEY CARRIAGE SURCHARGE
Chief Officer: Environment and Public Protection**

1 INTRODUCTION

- 1.1 Further to previous reports, this paper details a proposed way forward in respect of discussion about amendments to the tariff of fares charged by hackney carriages.

2 SUPPORTING INFORMATION

- 2.1 Given the views expressed during the consultation process, officers are keen to continue dialogue with the trade and other stakeholders including members of the public before presenting a more complete response to this Committee. It is proposed that officers look into the possibility of setting up a joint working group. The intention would be to involve representatives from the trade, meter company representatives and members of the public. Officers will then look to bring a report to a future meeting on the results of the working group.
- 2.2 This surcharge was introduced by the Council following the introduction of the Accessible Taxi Policy requiring the provision of wheelchair accessible vehicles was agreed in 2000. As part of the consultation process with the trade it was recognised that the vehicles available to hackney carriage owners which would meet the required policy were London-style taxis or the large MPV conversions which were significantly more expensive to purchase, run and maintain than many of the saloon vehicles licensed at that time.
- 2.3 Over the last 10 years the type and variety of wheelchair accessible vehicles has rapidly grown such that much cheaper vehicles with costs in line with saloon vehicles are now available. The need to purchase a more expensive 5+ seater vehicle to meet the accessibility criteria no longer exists. If such vehicles are purchased it is a matter of choice for the owner, not a compulsion. The trend to the smaller vehicle such as the Fiat Doblo or Peugeot Partner means that now there are only 31 large vehicle variants such as the VW Shuttle licensed as hackney carriages from a total fleet of 86. By 2015 this figure may, dependent upon owner choice, reduce further to 14 as vehicles reach their age limit and require replacement.
- 2.4 The present arrangements for calculating the surcharge is confusing for customers and open to fraudulent use. Many attempts have been made to find a way to present the charge in a way that is clear for customers but given the limitations of the meters fitted to the vehicles this has not been possible. We have received many complaints from both customers and the trade itself around incidents of conflict when the meter price rises by 50% at the end of the journey. The proposed recommendation would show, for say a journey carrying 7 passengers, 3 extra charges applied at the start of the journey and included in the running total on the meter. This would be clear to the customers as the price can be seen to be increasing as the journey progresses with no sudden, unexpected or questionable increase at the conclusion of the journey

- 2.5 Responses to the consultation process which was carried out between January and the 15 March and 24 responses were received. There were 2 responses from members of the public who supported the removal of the surcharge, and 1 who supported the retention of the surcharge. The 21 responses from members of the trade were against the removal of the surcharge as they argued that this would make such vehicles economically unviable.
- 2.6 It should be noted that hackney carriages are not the only suppliers of vehicles available to carry more than four passengers. Presently Bracknell Forest has 182 licensed private hire vehicles, of which 51 are able to carry five or more passengers.

Background Papers

None

Contact for further information

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

**DEREGULATION OF ENTERTAINMENT AND ALCOHOL LICENSING
Chief Officer: Environment and Public Protection**

1 INTRODUCTION

1.1 This report highlights further deregulation of entertainment licensing which took effect from 27 June 2013, and proposed further changes to the Licensing Act 2003.

2 SUPPORTING INFORMATION

2.1 Further to the deregulation implemented last year as a result of the Live Music Act 2012 (the 2012 Act), additional changes have been made by the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 (the 2013 Order).

2.2 The effect of the 2012 Act and the 2013 Order is that the following activities are no longer licensable when they take place between 08:00 and 23:00 on any day:

- A performance of a play in the presence of any audience of no more than 500 people
- An indoor sporting event in the presence of any audience of no more than 1000 people
- A performance of dance in the presence of any audience of no more than 500 people
- Live music, where the live music comprises:
 - i) A performance of unamplified live music
 - ii) A performance of live amplified music in a workplace with an audience of no more than 200 people
 - iii) A performance of live music on licensed premises (open for the sale of alcohol for consumption on the premises) which takes place in the presence of an audience of no more than 200 people

2.3 There are also significant changes to certain public and community venues in which entertainment activities are deregulated. Local authority, hospitals, nurseries and school premises (not higher education) where the event is hosted by the organisation and takes place on the premises are exempt between 08:00 and 23:00 with no audience limit. Local authority, hospitals, nurseries and school premises (not higher education) where the event is organised by others with the permission of the local authority, plus community premises such as village halls and church halls have live and recorded music exempted between 08:00 and 23:00 for audiences up to 500. Also, circuses have live and recorded music, plays, dance and indoor sport exempted between 08:00 and 23:00 with no audience limits.

2.4 Exhibitions of dance of an adult nature will not be deregulated, nor will recorded music or any regulated entertainment not falling within the above.

2.5 In addition to these changes which have already taken place, the Home Office has published a consultation with the aim of cutting red tape for businesses without undermining important safeguards against alcohol-related harm. It has already been announced that the system will be changed to remove the requirement to renew

personal licences issued under the Licensing Act 2003 (the 2003 Act). The new proposal is to abolish personal licences altogether.

- 2.6 The Government's view is that the personal licence system is poorly targeted and ineffective. All premises which sell alcohol are required to have a Designated Premises Supervisor, who must hold a personal licence. The view is that is not appropriate for all licensed premises. There is a cost incurred by applicants for a personal licence in respect of training, criminal checks and the licence fee itself.
- 2.7 There are four parts to the proposed change:
- i) Amend the mandatory conditions to require all alcohol sales to be authorised by the DPS, rather than a personal licence holder;
 - ii) Allow the police to object under s.37 of the 2003 Act to a new DPS based on the crime prevention objective in general, rather than only in 'exceptional circumstances';
 - iii) Allow licensing authorities to require a criminal records declaration with each new change of a DPS; and
 - iv) Allow those who either are named as the DPS on a premises licence or have accredited training to give up to 50 Temporary Event Notices (TENs) a year; others would be limited to giving only five.
- 2.8 The Government recognises that the safeguards afforded by personal licences, namely training and criminal records checks, are important tools that may be appropriate in specific cases. However, conditions added to premises licences could provide a better and more targeted way of applying these safeguards. So for example, the condition may be recommended and/or imposed on premises at high risk in respect of sales of alcohol to underage persons. It is proposed that the national benchmarks for training and criminal records checks would remain in place to ensure consistency of standards.
- 2.9 There are further changes to the Licensing Act 2013 which are still being discussed, such as increasing the limit for temporary event notices from 12 to 15, deregulation of community film exhibition and introducing a brand new authorisation for community and ancillary sellers of alcohol.

Background Papers

Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013

Live Music Act 2012

Home Office Consultation: Personal Alcohol Licences: Enabling Targeted, Local Alternatives

Contact for further information

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

**SCRAP METAL DEALERS ACT 2013
Chief Officer: Environment and Public Protection**

1 INTRODUCTION

- 1.1 This report provides detail on the new Scrap Metal Dealers Act 2013 (the Act) which received Royal Assent on 28 February 2013 and was implemented on 1 October 2013.

2 SUPPORTING INFORMATION

- 2.1 The Act provides for two different types of licences - a site licence and a mobile collector licence (carrying on business otherwise than at a site). Both licences will be valid for three years from the date of issue.
- 2.2 A site licence requires all of the sites at which the licensee carries on the business as a scrap metal dealer within the local authority area to be identified and a site manager to be named for each site. They will then be permitted to operate from those sites as a scrap metal dealer, including transporting scrap metal to and from those sites from any local authority area.
- 2.3 The mobile collector licence will authorise the licensee to operate as a mobile collector in the area of the issuing local authority, permitting them to collect any scrap metal as appropriate. This includes commercial as well as domestic scrap metal. The licence does not permit the collector to collect from any other local authority area. A separate licence should be obtained from each local authority from which the individual wishes to collect in. A collector's licence does not authorise the licensee to carry on a business at a site within any area.
- 2.4 The Act repeals the Scrap Metal Dealers Act 1964 and the system of registration of Motor Salvage Operators under the Vehicles (Crime) Act 2001. All those previously authorised by these scheme will now be treated as scrap metal dealers.
- 2.5 The Act will allow local authorities the power to refuse to grant or revoke licences if a person is considered unsuitable based on a number of factors including any relevant criminal convictions. The Act will also provide local authorities and police officers with powers of entry and inspection and creates closure powers for unscrupulous dealers who operate without a licence. It extends record keeping requirements and requires verification of persons that dealers are transacting with, along with extending the offence of buying metal with cash to itinerant metal collectors.
- 2.6 There are transitional provisions in place so that currently registered persons are required to submit applications by 15 October to be deemed to have a temporary licence which is valid until a licence decision is issued. It is recommended that such decisions should be made by 1 December. Persons who are not currently registered can apply from 1 October but must wait for a licence to be issued before commencing work as a scrap metal dealer.
- 2.7 Local Authorities will be able to charge an appropriate fee for licences to recover the costs of administering and checking compliance with the regime. Different fees will be specified for grant, renewal and variation and are likely to differ for site and collector licences due to the workload involved.

- 2.8 No method of deciding applications is set out in the Act, but it is suggested that given the rights to make representations where a licence application is going to be refused, revoked or varied, it would be appropriate for these cases to be heard by a panel of elected Members.

Background Papers

LGA Guidance for Scrap Metal Dealers Act

Contact for further information

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

**MOBILE HOMES ACT 2013
Chief Officer: Environment and Public Protection**

1 INTRODUCTION

- 1.1 The Mobile Homes Act 2013 (the 2013 Act) received Royal Assent on 26 March 2013. This report sets out the major changes to the existing legislation and how it impacts upon a significant number of residents within the Borough.

2 SUPPORTING INFORMATION

- 2.1 Within the Borough we have nearly 1,000 park homes on 16 licensed sites which provide all year round homes for residents. A significant number of those residents may be considered within vulnerable groups due to factors such as their age or income level.

- 2.2 The 2013 Act makes some significant changes to two long standing pieces of legislation, the Caravan Sites and Control of Development Act 1960 (the 1960 Act) and the Mobile Homes Act 1983 (the 1983 Act). It has been introduced following many recorded incidents of inadequate regulation within this industry resulting in rogue trading and bad practices which have impacted adversely in terms of both the health and finances of vulnerable people who were unable to adequately protect themselves. The 2013 Act is designed to give greater protection to the occupiers of residential mobile (park) homes.

- 2.3 The 1960 Act sets out the provisions for the licensing of caravan sites and certain provisions to be applied to those sites. If these provisions are breached a site owner can be prosecuted when certain conditions are met. This makes the provisions of the Act a local authority's responsibility to inspect and enforce. The 2013 Act brings in a number of provisions which are new:

- For the first time local authorities will be able to charge the site owner a fee for applying for a site licence – whether a fee is payable, and if so how much, will be a decision to be taken by this Committee;
- Local authorities will also be allowed to charge park owners an annual fee for the site licence – the level of this fee will depend on various factors including the costs of the administration and inspection of sites. Failure to pay the annual fee may lead to the site licence being revoked;
- Local authorities in England will be given the power to refuse to grant a site licence where it considers that the applicant is unsuitable to hold a licence. There is currently no guidance on what factors a local authority can apply when making this decision, although regulations are expected to be published in the future;
- The Act gives Parliament the ability to introduce a “fit and proper person” test for park owners and managers – this test will not apply immediately but may be introduced in the future if it is considered appropriate.

- 2.4 In addition the ability of a local authority to enforce licence conditions has been enhanced through a new power to serve a Compliance Notice. These Notices will:
- set out the breaches which have been identified;
 - tell the park owner what he must do to correct the breaches;
 - tell the park owner when he must correct the breaches; and
 - explain how the park owner may appeal against the Notice.
- 2.5 Failure by a licence holder to comply with a Compliance Notice is a criminal offence which can result in a fine of up to £5,000 and eventually revocation of the licence. Additionally if the licence holder does not comply with a Compliance Notice the local authority can do the work in default and recover the costs. There is an appeal process against a decision of the local authority to the Residential Property Tribunal (RPT).
- 2.6 All the above provisions come into effect from 1 April 2014 and officers will be preparing for these over the coming months. This will include recommendations for the charging of fees for the application for a licence and the annual fee to be applied from 1 April 2014.
- 2.7 The 1983 Act sets out the main provisions that apply to the contracts between a park owner and the resident, for example, site rules, pitch fees, transfer or selling of the homes. These are civil matters between the resident and park owner and have commonly been the subject of many of the disputes between parties. The 2013 Act looks to better define the parameters under which these agreements will operate and where necessary decide if disputes arise. They do provide an increased level of protection for park home residents. The RPT is able to assist residents with queries on these matters.
- 2.8 It is anticipated and hoped that regulations will be published in the future such that a licence holder who consistently breaches the civil provisions can be considered as a person unsuitable to hold a licence, such actions being undertaken by the local authority.
- 2.9 A final significant change, which came into effect together with changes mentioned in Para 2.7 on 26 May 2013, is contained with the Caravan Sites Act 1968 (the 1968 Act) where, under section 3, "protection of occupiers against eviction and harassment" further offence provisions are provided for a site owner who knowingly or recklessly provides information or makes a representation which is false or misleading in a material respect. The Local Authority is responsible for the enforcement of these provisions.

Background Papers

Mobile Homes Act 2013

<https://www.gov.uk/park-mobile-homes>

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