

Date of issue: Monday, 19th June 2017

MEETING	LICENSING COMMITTEE (Councillors Cheema (Chair), Parmar (Vice-Chair), Coad, Davis, Arvind Dhaliwal, Qaseem, Rasib, A Sandhu, Sohal, Strutton and Wright)
DATE AND TIME:	TUESDAY, 27TH JUNE, 2017 AT 6.30 PM
VENUE:	MEETING ROOM 2, CHALVEY COMMUNITY CENTRE, THE GREEN, CHALVEY, SLOUGH, SL1 2SP
DEMOCRATIC SERVICES OFFICER: (for all enquiries)	SHABANA KAUSER 01753 787503

NOTICE OF MEETING

You are requested to attend the above Meeting at the time and date indicated to deal with the business set out in the following agenda.



ROGER PARKIN
Interim Chief Executive

AGENDA

PART I

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	Apologies for absence.		
	CONSTITUTIONAL MATTERS		
1.	Declarations of Interest		
	<i>All Members who believe they have a Disclosable Pecuniary or other Pecuniary or non pecuniary Interest in</i>		

AGENDA
ITEM

REPORT TITLE

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WARD

any matter to be considered at the meeting must declare that interest and, having regard to the circumstances described in Section 3 paragraphs 3.25 – 3.27 of the Councillors' Code of Conduct, leave the meeting while the matter is discussed, save for exercising any right to speak in accordance with Paragraph 3.28 of the Code.

The Chair will ask Members to confirm that they do not have a declarable interest. All Members making a declaration will be required to complete a Declaration of Interests at Meetings form detailing the nature of their interest.

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LICENSING ISSUES

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| 5. | Proposed emission standards for Hackney Carriage and Private Hire vehicles | 13 - 24 | All |
| 6. | Hackney Carriage and Private Hire Licensing Statement | 25 - 46 | All |
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Press and Public

You are welcome to attend this meeting which is open to the press and public, as an observer. You will however be asked to leave before the Committee considers any items in the Part II agenda. Please contact the Democratic Services Officer shown above for further details.

The Council allows the filming, recording and photographing at its meetings that are open to the public. By entering the meeting room and using the public seating area, you are consenting to being filmed and to the possible use of those images and sound recordings. Anyone proposing to film, record or take photographs of a meeting is requested to advise the Democratic Services Officer before the start of the meeting. Filming or recording must be overt and persons filming should not move around the meeting room whilst filming nor should they obstruct proceedings or the public from viewing the meeting. The use of flash photography, additional lighting or any non hand held devices, including tripods, will not be allowed unless this has been discussed with the Democratic Services Officer.



PREDETERMINATION/PREDISPOSITION - GUIDANCE

The Council often has to make controversial decisions that affect people adversely and this can place individual members in a difficult position. They are expected to represent the interests of their constituents and political party and have strong views but it is also a well established legal principle that members who make these decisions must not be biased nor must they have pre-determined the outcome of the decision. This is especially so in “quasi judicial” decisions in planning and licensing committees. This Note seeks to provide guidance on what is legally permissible and when members may participate in decisions. It should be read alongside the Code of Conduct.

Predisposition

Predisposition is lawful. Members may have strong views on a proposed decision, and may have expressed those views in public, and still participate in a decision. This will include political views and manifesto commitments. The key issue is that the member ensures that their predisposition does not prevent them from consideration of all the other factors that are relevant to a decision, such as committee reports, supporting documents and the views of objectors. In other words, the member retains an “open mind”.

Section 25 of the Localism Act 2011 confirms this position by providing that a decision will not be unlawful because of an allegation of bias or pre-determination “just because” a member has done anything that would indicate what view they may take in relation to a matter relevant to a decision. However, if a member has done something more than indicate a view on a decision, this may be unlawful bias or predetermination so it is important that advice is sought where this may be the case.

Pre-determination / Bias

Pre-determination and bias are unlawful and can make a decision unlawful. Predetermination means having a “closed mind”. In other words, a member has made his/her mind up on a decision before considering or hearing all the relevant evidence. Bias can also arise from a member’s relationships or interests, as well as their state of mind. The Code of Conduct’s requirement to declare interests and withdraw from meetings prevents most obvious forms of bias, e.g. not deciding your own planning application. However, members may also consider that a “non-pecuniary interest” under the Code also gives rise to a risk of what is called apparent bias. The legal test is: “whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the Committee was biased’. A fair minded observer takes an objective and balanced view of the situation but Members who think that they have a relationship or interest that may raise a possibility of bias, should seek advice.

This is a complex area and this note should be read as general guidance only. Members who need advice on individual decisions, should contact the Monitoring Officer.

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Licensing Committee – Meeting held on Thursday, 20th October, 2016.

Present:- Councillors Davis (Chair), Cheema (Vice-Chair), Parmar, Qaseem, Rasib, A Sandhu, Shah, Sohal, Strutton and Wright

Also present under Rule 30:- Councillors Anderson, Dar and Pantelic

Apologies for Absence:- Councillor Coad

PART 1

6. Declarations of Interest

Councillor Strutton declared that he held a Private Hire Driver and Operator Licence until February 2016. He no longer held these Licences and was now employed as a contracted Chauffeur.

7. Guidance on Predetermination/ Predisposition - To Note

Members confirmed that they had read and understood the guidance on predetermination and predisposition.

8. Minutes of the Last Meeting held on 8th June, 2016

Resolved - That the minutes of the last meeting, held on 8th June, 2016, be approved as a correct record.

9. Revised Policy for Tinted Windows/ Privacy Glass in Private Hire and Hackney Carriage Vehicles

The item was taken first on the agenda as representatives of the Taxi and Private Hire Trade, and Members attending the hearing under Rule 30 wished to address the Committee.

The Licensing Manager outlined a report setting out a revised policy for tinted windows/ privacy glass in Private Hire and Hackney Carriage vehicles. He also referred to a supplementary document that was published on 18th October and a tabled a document which set out Manufacturers details of tinted windows.

The Committee was advised that the original policy for tinted windows/privacy glass in respect of Private Hire and Hackney Carriage vehicles was approved by the Licensing Committee in November 2012. The policy addressed the personal safety of licensed drivers and fare paying passengers and required vehicle owners to pay for the replacement of manufactured fitted tinted windows that came as standard, where they did not meet the policy.

The Officer advised that the cost in replacing tinted windows was now prohibitive for owners/ proprietors who wanted to upgrade their licensed

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vehicles. However, the protection and safety of the public should be balanced against this. The Committee was advised that the revision of the policy if approved would negate the unnecessary costs and inconvenience of vehicle proprietors having to replace factory fitted tinted windows.

There were no regulations regarding the transmission of light through the rear windows or rear windscreen of vehicles and a number of manufacturers offered the option of very dark windows and 'after market' window tinting. It was highlighted that very dark or heavily tinted windows were mainly fitted as standard in higher class models or makes of vehicles.

The Committee noted the best practice recommended for tinted windows which stated that the minimum light transmission for glass in front of, and to the side of, the driver was 70% and that when licensing vehicles, authorities should be mindful of this as well as the large costs and inconvenience associated with changing glass to meet approval. Members were advised that Officers had met with the Taxi and Private Hire Trade at their request to review the policy to allow more prestige/executive class vehicles to be licensed without having to incur high costs involved in replacing the glass. A consultation exercise had followed and Members were referred to the responses set out in the report together with examples of policies required by other Authorities in the Thames Valley area.

The Officer highlighted that public safety was an important aspect for the Committee to consider when resolving to approve a policy or revised policy. The Licensing Manager referred to a report by David Wilson, Licensing Consultant. This had concluded that useable information collected from almost half of the Police Forces in England and Wales who participated in a study, had indicated that there was no information held which demonstrated that anti-flare/ tinted glass had ever contributed to the commission of an offence, alleged or otherwise by anyone in a Hackney Carriage or Private Hire Vehicle.

The Chair of the Slough Taxi Federation advised the Committee that the Federation was in agreement with the revised Policy as set out. The Private Hire representative also advised during the meeting that his Members supported the revised Policy.

Two Members addressed the Committee under Rule 30 and stated their belief that the revised policy was a retrograde step. It was argued that the number one priority was the safety of the public and the image of Slough. It was also suggested that a simple policy of allowing no tinted windows in vehicles such as the one adopted by Wycombe DC was preferable. It was also argued that drivers could if they wished buy a model of vehicle without tinted windows, thereby avoiding the need to pay for the vehicle to be modified.

In the ensuing debate, Committee Members raised a number of questions and comments. The Officer confirmed that it would be possible to create a separate policy for Private Hire and Hackney Carriage Drivers but he would not recommend this and had never known any other Authority adopt this

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approach. A Committee Member enquired whether the two Trade representatives in attendance would have supported the new policy had the tabled document regarding manufacturer details been available at that time. Both representatives confirmed that they would have done so.

The Officer confirmed that the public had not been consulted on the change to the policy because this was not a new policy. Views had been sought from Traffic Officers and Thames Valley Police and both thought that the revised policy was reasonable.

A Member asked whether the Policy would be reviewed annually and this was confirmed.

Resolved- That the revised Policy for Tinted Windows/ Privacy Glass in Private Hire and Hackney Carriage Vehicles be revised as set out in Appendix B of the report.

10. Dress Code for Private Hire and Hackney Carriage Drivers

The Senior Licensing Officer outlined a report and requested that the Committee consider and comment on a Dress Code for Private Hire and Hackney Carriage drivers.

The Officer highlighted that the appearance and dress of licensed drivers could create a lasting impression on visitors and the local fare paying public in general. It was important for drivers to portray a professional image which was good for business and good for the image of the Borough.

The Committee noted that the Council currently had only one condition in place which stated that drivers should be clean and respectable in their dress and person and behave in a civil and orderly manner.

The Authority did not wish to impose standards through licensing conditions but expected that a level of standard be maintained by drivers at all times. Therefore a suggested dress code had been compiled as set out in the report and consultation had taken place with the Slough Private Hire Drivers Association and the Slough Taxi Federation in August, 2016, who broadly supported the proposals. It was highlighted that comments were received regarding the type of footwear that should be worn and faith or religious clothing.

Members were reminded that a balance must be struck between achieving an appropriate image whilst representing the Borough and not impacting on an individual's freedom to wear clothes that were not too prescriptive.

The Committee considered the suggested Dress Guidance and Members expressed a number of differing views regarding what was deemed to be suitable footwear and clothing. It was decided that the proposed Dress Code would not be adopted at this time and that a statement be inserted into the

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'Private Hire and Hackney Carriage Drivers Charter', to request that Drivers adopt a professional image at all times.

Resolved- That the following statement be inserted into the proposed 'Private Hire and Hackney Carriage Drivers Charter'.

“Guidance on Dress for Private Hire and Hackney Carriage Drivers

The Authority is committed to encouraging the professional image of the Private Hire and Hackney Carriage trade and it considers that drivers should conform to a minimum standard of dress, as set out below, in order to raise and maintain the profile of the licensed trade. Whilst the Authority does not wish to impose such standards by way of conditions to any licence, it expects however, that such standards will be maintained at all times.

Drivers shall pay particular attention to their personal hygiene and dress so as to dress appropriately and present a professional image to the public”.

11. Amendment to the wording of the 'No Sexual Contact' Condition for Private Hire and Hackney Carriage Drivers

The Senior Licensing Officer outlined a report setting out proposed amendments to the 'no sexual contact' condition for Private Hire and Hackney Carriage Drivers. It was highlighted that the current conditions were approved in 2010.

The Committee was reminded that the role of the Licensing Authority was the protection, safety and wellbeing of the public. Since 2010, a number of complaints had been made by female passengers to the Licensing Team and to the Police, regarding the receipt of unwarranted verbal sexual advances and inappropriate comments from drivers, made by telephone. The Officer considered that an amendment to the wording to the condition to prevent this would further protect vulnerable persons, particularly women travelling in licensed Private Hire and Hackney Carriage vehicles.

The current condition stipulated that Licensed drivers may not initiate any dialogue of a sexual nature with a passenger or become involved sexually or have sexual contact, even with consent, with a passenger whilst on duty or in a licensed vehicle.

In light of complaints received it was proposed that the condition be amended to include a reference that there be no contact by telephone, social media or email. It was highlighted that Licensed drivers were not permitted to become involved sexually or have sexual contact, even with consent, with a passenger whilst on duty or in a licensed vehicle.

Legal advice had confirmed that the change to the condition was not deemed to be significant, therefore consultation was not required. However all licensed Private Hire and Hackney Carriage drivers were informed of the change in August 2016 as part of a consultation on other matters.

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Members asked whether details of the revised condition would be sent to all drivers and the Officer confirmed that this would be included in a newsletter and also within a policy document. It was also agreed that it could be emailed to Drivers.

The Committee welcomed the revision to the condition.

Resolved- That the No Sexual Contact condition be amended as follows:

“Licensed drivers shall not initiate, respond to, or engage in any dialogue of a sexual nature with a passenger, including communication by telephone contact, social media, email or any other form of communication. Licensed drivers are not permitted to become involved sexually or have sexual contact, even with consent, with a passenger whilst on duty or in a licensed vehicle”.

12. Guidelines for Installation of Audio and Visual Equipment in Licensed Vehicles (CCTV)

The Licensing Manager introduced a report in which the Committee was requested to consider proposals for the installation of audio and CCTV in licensed vehicles.

The Officer advised that whilst it was recognised that CCTV in licensed vehicles could assist in the prevention of crime and disorder, and could be a useful tool when investigating offences, the Information Commissioner had stated that any compulsory or mandatory requirement for CCTV in licensed vehicles could be in contravention of Article 8 the European Convention of Human Rights and a breach of the Data Protection Act.

Notwithstanding this, each Local Authority was under a duty to ensure that it had appropriate guidance in place for those licensed vehicle proprietors who wanted to install CCTV in their vehicles.

The Committee was advised that a formal consultation had not been carried out but all Private Hire, Hackney Carriage Drivers and Operators had been forwarded a copy of the proposed guidelines for the installation of CCTV in a licensed vehicle. In response to a question, the Officer advised that to date, three female Drivers had made enquiries about fitting CCTV in their vehicles.

Members welcomed the proposed guidelines.

Resolved- That the Committee approve the Guidelines for a licence holder wishing to install CCTV in a licensed vehicle.

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13. Private Hire and Hackney Carriage Drivers Charter

The Licensing Manager outlined a report, in which the Committee was requested to approve a Private Hire and Hackney Carriage Drivers Charter. This had been developed in consultation with representatives of the industry with the purpose of raising standards, and ensuring clarity and consistency.

The Committee was reminded that the Council already had several policies, and conditions in place for Private Hire and Hackney Carriage Drivers, Vehicles and Operators. The Driver's Charter had been developed to incorporate the policies, conditions and bye-laws currently in place and sought drivers' commitment to, 'My Passenger and Service', and 'My Responsibilities'.

It was highlighted that a statement relating to appropriate dress and appearance, and revised wording for the 'No sexual contact' condition (both approved earlier in the meeting), would also be incorporated into the Driver's Charter.

Resolved- That the Private Hire and Hackney Carriage Drivers Charter be approved.

14. Members Attendance Record

Noted.

15. Date of Next Meeting

The date of the next meeting was confirmed as 22nd November, 2016.

Chair

(Note: The Meeting opened at 6.30 pm and closed at 8.32 pm)

SLOUGH BOROUGH COUNCIL

REPORT TO: Licensing Committee **DATE:** 27th June, 2017

CONTACT OFFICER: Shabana Kauser (Senior Democratic Services Officer)
(For all Enquiries) (01753) 787503

WARD(S): All

**PART I
FOR DECISION****ESTABLISHMENT OF A LICENSING SUB-COMMITTEE AND
APPOINTMENT OF DESIGNATED CHAIRS****1. Purpose of Report**

This report seeks approval for the establishment of a Licensing Sub-Committee and the appointment of designated Chairs to the Sub-Committee.

2. Recommendations

The Committee is requested to Resolve:

- (a) That a Licensing Sub-Committee (drawn from the Members of the Licensing Committee) be established as required on a proportional basis (2 Labour 1 Conservative) with terms of reference as set out in the appendix.
- (b) That three Labour Members be appointed to act as designated Chairs of the Sub-Committee for the 2017/2018 municipal year.

3. Slough Joint Wellbeing Strategy Priorities

There are no implications.

4. Other Implications**(a) Financial**

There are no financial implications associated with this report at this stage.

(b) Human Rights Act and other Legal Implications

The relevant law in respect of this matter is set out in Sections 15-17 (inclusive) of the Local Government and Housing Act 1989 (the Act) and the Local Government (Committees and Political Groups) Regulations 1990 (as amended). Applying the basic principles of Sections 15-17 of the Act requires not all the seats on the Sub Committee to be allocated to the same political group. However as an alternative to applying the political proportionality rules the Committee is entitled under Section 17 of the Act to adopt different arrangements provided all of the members vote for/abstain from a proposal (ie: no member votes against).

(c) Workforce

None.

5. **Supporting Information**

- 5.1 The Licensing Committee first established a Licensing Sub-Committee at its meeting on 31st May, 2006 and agreed the terms of reference (set out in the appendix).
- 5.2 The Committee agreed to the appointment of designated Chairs of the Sub-Committee and that these Members would chair the meetings of the Sub-Committee on a rotational basis.
- 5.3 It was agreed that the Sub-Committee would consist of three Members drawn on a rotational basis from the Members of the Licensing Committee on a politically proportionate basis.
- 5.4 As the Labour Group has an overall majority on the Council, the Sub-Committee should comprise two Labour Members and one Member of the Conservative Group. Although Councillor Coad has been allocated a seat on the Licensing Committee, she is not a member of a Group on the Council and is therefore not entitled to a place on the Sub Committee. Meetings of the Sub-Committee are held during the day time and must be held within the statutory deadlines prescribed. There were 4 meetings of the Sub Committee convened in the 2016/17 municipal year.
- 5.5 The membership of the Licensing Committee for the 2017/18 Municipal Year comprises 8 Labour, 2 Conservative and 1 UKIP Member. A Licensing Sub-Committee (drawn from the Members of the Licensing Committee) must be established as required on a proportional basis (2 Labour, 1 Conservative) with terms of reference as set out in the appendix.

6.0 **Conclusion**

The Committee is requested to establish a Licensing Sub-Committee and appoint three Members of the Licensing Committee as designated Chairs for the 2017/2018 municipal year.

6. **Background Papers**

None.

LICENSING SUB-COMMITTEE

Constitution

3 Members of the Licensing Committee (Quorum 3 Members)

Terms of Reference

- 1 To consider and determine applications for licences for private hire vehicles, operators and drivers and for hackney carriage drivers where:
 - (i) The individuals involved have been convicted of traffic or other offences.
 - (ii) Where CRB checks on an individual give cause for concern with regard to their suitability as a fit and proper person to hold such a licence.
 - (iii) In any other special circumstance where the officers consider it appropriate to refer the matter to the Sub-Committee.
- 2 To hear and determine any appeal against a decision of the Director of Customer and Community Services taken under delegated powers to refuse an application for approval of premises or to revoke any approval previously granted under the Marriage Act 1994.
- 3 To determine such other licensing appeals or other licensing matters referred by officers including but not restricted to:
 - Sex establishments
 - Street trading.

Licensing Act 2003

- 4 To consider applications for a personal licence where a representation has been made.
- 5 To consider applications for a personal licence in cases where the applicant has unspent criminal convictions.
- 6 To consider applications for premises licences/club premises certificates where a representation has been made.
- 7 To consider applications for provisional statement where a representation has been made.
- 8 To consider applications for variations to premises licences or club premises certificates where a representation has been made.
- 9 To consider applications for the transfer of a premise licence where a representation by the Police has been made.

- 10 To consider reviews to premises licence/club premises certificates where these have been requested by the relevant authority in accordance with the relevant regulations.
- 11 To determine a Police representation in respect of a temporary event notice.
- 12 To consider applications for Interim Authorities where a representation by the Police has been made.

Gambling Act 2005

- 13 Application for a Non Fast Transitional Conversion for a Premises Licence where representations have been made.
- 14 Application for new Premises Licence where representations have been made.
- 15 Application for a Provisional Statement where representations have been made.
- 16 Application to vary a Premises Licence where representations have been made.
- 17 Application for Transfer of a Premises Licence where representations have been made
- 18 Cancellation of Club Gaming / Club Machine permits
- 19 Applications for other permits where representation have been made
- 20 Decision to give a counter notice to a temporary or Occasional Use Notice
- 21 Application a for a Review of a Premises Licence

SLOUGH BOROUGH COUNCIL

REPORT TO: Licensing Committee **DATE:** 27th June 2017

CONTACT OFFICER: Michael Sims, Licensing Manager
(For all Enquiries) (01753) 477387
 Ginny de Haan, Head of Consumer Protection and Business
 Compliance
 (01753 477912)

WARD(S): ALL

PART I
INFORMATION, COMMENT AND DECISION

PROPOSED EMISSION STANDARDS FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

1. **Purpose of Report**

To inform the Committee of proposals for low emission standards for hackney carriage (taxi) and private hire vehicles in Slough as part of the Council's draft Low Emission Strategy and the proposed feasibility for a Clean Air Zone.

2. **Recommendation(s)/Proposed Action**

The Committee is requested to:

- (a) Note the report and comment on the proposals for low emission standards and effective dates,
- (b) Agree that the proposed low emission standards be approved and are subject to consultation,
- (c) Agree any amendments to the proposed low emission standards and implementation dates prior to consultation,
- (d) Agree that all final proposals after consultation are brought back before Committee for approval.

3. **The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan**

The European Union Air Quality Directive 2008/50/EC13 sets out the obligations for Member States in terms of assessing ambient air quality and ensuring that Limit Values ("LV") for certain pollutants are not exceeded. In the UK, the requirements of the Directive have been transposed into domestic law through the Environment Act 1995 and subordinate regulation 14.15.

The report outlines that Slough is finalising its draft Low Emission Strategy ("LES") in line with the Government's new National Air Quality Plans, published on the 5th May 2017. The Slough LES forms part of the Slough Air Quality Action Plan and includes measures to reduce emissions from road transport vehicles, the main cause of elevated levels of Nitrogen Dioxide ("NO₂") and a key contributor to particulate matter ("PM") concentrations in the Borough. Both NO₂ and PM have significant health impacts for the residents of Slough.

The proposals in the Slough Low Emission Strategy for taxi and private hire vehicles will have a significant impact in reducing pollutants and contribute to Councils duty to improve air quality in Slough.

3a. **Slough Joint Wellbeing Strategy Priorities**

The proposals for the Slough Low Strategy will contribute to the Slough Joint Wellbeing Strategy of:

Priority – Increasing life expectancy by focusing in inequalities.

3b. **Five Year Plan Outcomes**

The proposals will contribute significantly to the Five Year Plan with the specific outcomes of:

- Our children and young people will have the best start in life and opportunities to give them positive lives.
- Our people will become healthier and will manage their own health, care and support needs.
- Slough will be an attractive place where people choose to live, work and visit.
- Slough will attract, retain and grow businesses and investment to provide jobs and opportunities for our residents.

4. **Other Implications**

(a) Financial

There are no financial implications of proposed action.

(b) Risk Management

Recommendation	Risk/Threat/Opportunity	Mitigation(s)
From section 2 above	The main threat will be that of some current licensed vehicles having to meet the proposed emission standard requirement. However as vehicles reach the vehicle age limits they will be replaced by vehicles that do meet the emission standards.	As Slough is under a duty to decrease air pollution levels the proposed emission standards will contribute significantly to this. There are no issues of inequalities as the emission standards will apply equally to all taxi and private hire vehicles.

(c) Human Rights Act and Other Legal Implications

1. Section 1 and Schedule 1 Parts I & II of The Human Rights Act 1998 apply:

Article 1 – Every person is entitled to the peaceful enjoyment of his or her possessions including the possession of licence and shall not be deprived of the possession except in the public interest.

Article 6 – That in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

2. The Local Government (Miscellaneous Provisions) Act 1976, allows the Local Authority to set standards for the granting of taxi and private hire vehicle licenses.
3. There is a legal requirement to improve and maintain air quality standards. The European Union Air Quality Directive 2008/50/EC13 sets out the obligations for Member States in terms of assessing ambient air quality and ensuring Limit Values (LV) for certain pollutants are not exceeded. The requirements of the Directive have been transposed into domestic law through the Environment Act 1995 and subordinate regulation 14.15.

(d) Equalities Impact Assessment

An Equality Impact Assessment has not been completed at this time as the emission measures are proposals for comment and discussion. Consideration may be given to an Equality Impact Assessment being completed. However, it should be noted that at this time there are no equality issues identified as the strategy would apply to any proprietor of a hackney carriage or private hire vehicle in similar circumstances.

5. **Supporting Information**

- 5.1 SBC is finalising its Low Emission Strategy draft (LES 2017-25) in line with the Government's new National Air Quality Plans, published on the 5th May 2017. The Slough LES forms part of the Slough Air Quality Action Plan and includes measures to reduce emissions from road transport vehicles, the main cause of elevated levels of NO₂ and a key contributor to PM concentrations in the Borough. Both NO₂ and PM have significant health impacts for the residents of Slough.
- 5.2 There are currently 715 licensed hackney carriages (taxis) and private hire vehicles operating in Slough. The chart below details a breakdown of the fuel types for each category of vehicle.

HACKNEY CARRIAGE	
Total	107
Diesel	99
Petrol	6
Hybrid Electric/Petrol	1
Hybrid Electric/Diesel	1
PRIVATE HIRE	
Total	608
Diesel	525
Petrol	31
Duel Fuel	1
Hybrid Electric/Petrol	51

- 5.3 The majority of the journeys taken by taxi and private hire vehicles are short journeys in and around the Slough and immediate neighbouring areas and therefore contribute to overall air pollution. Although the licensed vehicles make up a small proportion of the overall number of vehicles in the Slough area, they do emit a higher proportion of NO₂ and are a key contributor to PM in the area.
- 5.4 Taxi and private hire vehicles can be part of the solution, by showing the potential for low emission vehicles and ‘normalising’ their use to the thousands of passengers they carry each year. The Slough Low Emission Strategy will encourage and support taxi and private hire operators to switch to low emission alternatives and consider what policy incentives will support taxi and private hire operators to make the change.
- 5.5 Mr Andrew Whittles (Low Emission Strategies Ltd) who has been working with Mr Jason Newman the SBC Environmental Quality Manager has prepared a briefing note (**Appendix A**) on the draft Slough Low Emission Strategy proposals, specifically in relation to taxi and private hire vehicles, which details proposals for emission standard requirements for taxi and private hire vehicles in Slough. Table 1 details the proposed standards as well as proposed implementation dates. The proposed dates will be applicable to any new vehicle to be licensed on or after that date.
- 5.6 The current euro emission standards and implementation dates for both diesel and petrol vehicles are detailed in the below chart.

Euro emissions standards for diesel cars

Euro standard	Date	CO	NO ₂	PM
Euro 1	July 1992	2.72	-	0.14
Euro 2	January 1996	1.0	-	0.08
Euro 3	January 2000	0.64	0.50	0.05
Euro 4	January 2005	0.50	0.25	0.025
Euro 5a	September 2009	0.50	0.180	0.005
Euro 6	September 2014	0.50	0.080	0.005

Euro emissions standards for petrol cars

Euro standard	Date	CO	NO2	PM
Euro 1	July 1992	2.72	-	-
Euro 2	January 1996	2.2	-	-
Euro 3	January 2000	2.3	0.15	-
Euro 4	January 2005	1.0	0.08	-
Euro 5	September 2009	1.0	0.060	0.005
Euro 6	September 2014	1.0	0.060	0.005

- 5.7 In 2016, the Council undertook a Ultra Low Emission Taxi feasibility Study which showed that there was interest from the taxi trade in using electric plug-in vehicles. As a result, in March 2017, the Government awarded Slough £157,000 to install 7 rapid charging units for charging taxi's. The briefing note details further information on this.
- 5.8 The 7 rapid charging units should be capable of supporting a 'high' take up of ultra-low emission vehicles over the next 3 years. This would mean that they could cope, should around 30% of hackney carriages and 50% of private hire vehicles switch by 2020.
- 5.9 It has recently been announced that the London Taxi Company will be producing a new extended electric London Taxi which will be on the market later this year. The cost for this new London Taxi will be in the region of £33k with the top up grant (about £7.5k) available from the Government. In addition, the Nissan eNV 200 electric taxi is also available and qualifies for the Plug-in Car Grant (about £4.5k) and costs around £20k. As Slough completed a Ultra Low Emission Taxi Study, Slough taxi drivers (WAVs) will qualify for the top up grant and saloon drivers will qualify for the Plug-in Car Grant
- 5.10 The proposed emission strategy prompts new taxi registrations into being the early movers, with the requirement that all taxis and private hire vehicles should be ULEV by 2025, this means that there will be significant numbers of second hand plug in taxis on the market by then which will support choice
- 5.11 The Council will be holding 'Trade' days when vehicle owners can meet with ULEV manufacturers and service providers to discuss opportunities.
- 5.12 As part of the implementation of low emission standards for taxi and private hire vehicles, a full review will also be necessary of both the current hackney carriage and private hire vehicle age policies (**Appendix B and Appendix C respectively**) and the current policy on minimum sizes of vehicles to be licensed (**Appendix D**) to cater for the age and types of ultra-low emission vehicles to be licensed, some of which tend to be smaller than the current licensed vehicles. The review of these

policies will be dealt with as a separate matter and carried out and consulted upon once the low emission standards have been implemented.

6. Comments of Other Committees

None.

7. Conclusion

That the Committee consider the details of the report and recommendations as set out in Paragraph 2.

8. Appendices Attached

- 'A' - Proposed Slough Low Emission Strategy for taxi and private hire vehicles.
- 'B' - Hackney Carriage Vehicle Age Policy
- 'C' - Private Hire vehicle Age Policy
- 'D' - Minimum Sizes of vehicles to be licensed.

9. Background Papers

- '1' - SBC Draft Low Emission Strategy
- '2' - Slough Air Quality Action Plan
- '3' - Local Government (Miscellaneous Provisions) Act 1976
- '4' - Office of Low Emission vehicles
- '5' - European Union Air Quality Directive 2008/50/EC13
- '5' - Hackney Carriage vehicle Age Policy
- '6' - Private Hire vehicle Age Policy
- '7' - Policy on minimum sizes of vehicles to be licensed.
- '8' - Slough Ultra-Low Emission Taxi Feasibility Study

APPENDIX A

Briefing Note - Slough Low Emission Strategy draft

Taxi Emission Measures

SBC is finalising its Low Emission Strategy draft (LES 2017-25) in line with the Government's new National Air Quality Plans, due to be published on the 5th May 2017. The LES forms part of the Slough Air Quality Action Plan and includes measures to reduce emissions from road transport vehicles, the main cause of elevated levels of Nitrogen Dioxide (NO₂) and a key contributor to particulate matter (PM) concentrations in the Borough. Both NO₂ and PM have significant health impacts for the residents of Slough.

The Government expects local authorities to take a lead and use available powers to reduce vehicle emissions where possible, including controlling emissions from taxis. Taxis operate mainly in the urban area where air pollution is greatest and often leave their engines idling on taxi ranks where members of the public are often exposed.

SBC are looking at the feasibility of implementing a Clean Air Zone (CAZ) in the Borough that will seek to restrict access to the most polluting commercial vehicles whilst also seeking to promote an acceleration in the uptake of ultra-low emission vehicles (ULEVs). In line with the National Air Quality Plan, the introduction of a CAZ will also require minimum emission standards for taxis. Proposed minimum emission standards for taxis in Slough are shown in table 1.

Table 1 – Proposed emission standard requirements for taxis

Taxi Licensing Type	Emission Standard & Compliance Dates
All new registrations	Minimum CAZ* Standard (Euro 6 diesel/4 petrol) from 1 st January 2018 ULEV** Standard from 1 st January 2019
All licensing renewals	CAZ Standard (Euro 6 diesel/4 petrol) from 1 st January 2019 WAV*** to comply by 1 st January 2020
All licensing renewals	ULEV from 2025

*Clean Air Zone

**A vehicle that uses low carbon technologies and emits less than 75g of CO₂/km from the tailpipe and is capable of operating in zero tailpipe emission mode for a range of at least ten miles.

***Wheelchair Accessible Vehicle (Hackney Carriage only)

In 2016, SBC undertook an Ultra-Low Emission Taxi Feasibility Study, a pre-requisite for Government funding to support the uptake of ultra-low emission taxis. The study showed that there was interest from the taxi trade in using plug-in vehicles and that at around 3p per mile to run, Slough taxi drivers could achieve significant cost savings by switching from their diesel vehicles. A key issue is the availability of dedicated rapid charging facilities for taxis.

In March 2017, the Government awarded Slough £157,000 to install 7 rapid charging units for charging taxis. These new units will be rolled out over the next 2 years at the following locations:

- Slough railway station – front entrance
- Slough Railway station – rear entrance

- Harrow Market, Langley
- Burnham Railway station
- The Grove car park, town centre
- Burlington car park, town centre
- Church Street, town centre

In order to facilitate a switch to ultra-low emission, plug-in taxis, it is proposed that licensing standards for ULEVs are introduced in line with table 1.

Additionally, incentives to promote the uptake of plug-in taxis will be considered, including:

- Dedicated ULEV taxi ranks at Slough, Burnham and Langley Railway Stations
- Dedicated SMART APP for taxi drivers to book charging facilities
- Discounted charging rates for early adopters
- ULEVs to be prioritised when SBC, and other public services, procure taxi services

SBC will be holding 'Trade' days when taxi drivers can meet with ULEV manufacturers and service providers to discuss opportunities.

APPENDIX B

Vehicle Age Policy for Hackney Carriages Incorporating a Mixed Fleet Provision – Adopted by Council on 07 Oct 2008

WHEELCHAIR ACCESSIBLE AND PURPOSE BUILT VEHICLES

1. This part of the policy relates to all wheelchair accessible and purpose built vehicles including, TX1, TX2, TX4, Metro Cabs and Eurocabs.
2. Any new vehicle to be licensed as a Hackney Carriage either permanently or temporarily to be no older than 5 years of age from the date of first registration.
3. The vehicle once licensed can be licensed for an indefinite period but must pass a Certificate of Compliance every six months on reaching 14 years of age.
4. Any vehicle imported into the UK, the date requirements will apply from the date of manufacture.
5. A current wheelchair accessible/purpose built Hackney Carriage licence holder can only replace the vehicle with another wheelchair accessible/purpose built vehicle as defined in paragraph 1 above.

SALOON HACKNEY CARRIAGE VEHICLES

Pending the outcomes of national consultation being conducted by the Department for Transport (DfT) and any future local consultation on Hackney Carriage mixed fleets the following will apply as an Interim Provision:-

6. Any new saloon vehicle to be licensed as a Hackney Carriage vehicle either permanently or temporarily to be no older than 5 years from the date of first registration.
7. Any vehicle imported into the UK, the date requirements will apply from the date of manufacture.
8. Paragraph 6 above only relates to currently licensed saloon Hackney Carriage vehicle licence holders.
9. The vehicle once licensed can be licensed to a maximum of 9 years from the date of first registration.
10. Any licensed saloon vehicle may be sold to an existing Hackney Carriage licence holder, subject to paragraph 5 above.
11. Any licensed saloon Hackney Carriage vehicle may be replaced at any time with a wheelchair accessible/purpose built vehicle.

GENERAL

12. During the period from this policy taking effect, and pending any subsequent legislation or guidance issued by the DfT on Hackney Carriage mixed fleets, any Hackney Carriage vehicle may be replaced with a newer vehicle of a similar type.
13. Any vehicle to be licensed as a temporary replacement or on a temporary basis (e.g. where the permanent vehicle has been involved in an accident or been stolen, etc) must be replaced with a suitable vehicle, as agreed with the Council's Licensing Officer, pending the repair or renewal of the original vehicle within a 3 month period.
14. In all cases of transfer of vehicle, the prior written permission of the Licensing Officer is required.
15. That this new policy and interim provision relating to saloon vehicles be fully reviewed when the findings, guidance and or regulations are published following the DfT consultation.
16. Any saloon Hackney Carriage vehicle being replaced like for like during this interim provision period may be required to be upgraded to a wheelchair compliant vehicle at the end of the current licence period.

APPENDIX C

CURRENT VEHICLE AGE POLICY FOR PRIVATE HIRE VEHICLES **APPROVED BY COUNCIL ON 16TH DECEMBER 2008**

1. Any new vehicle to be licensed as a private hire vehicle, either permanent or temporary, to be no older than 5 years from the date of first registration.
2. That condition 1 above will apply to all new and current licence holders.
3. The vehicle once licensed can be licensed to a maximum of 9 years from the date of first registration.
4. A current licensed vehicle can be transferred to another licence holder up to one year under the maximum age limit.
5. All vehicles to be tested annually up to six years of age.
6. After six years of age vehicles to be tested six monthly.
7. That for any vehicle imported into the UK, the date requirements will apply from the date of manufacture.
8. That where it is felt that there are exceptional circumstances for a vehicle to be licensed either from new (over 5 years of age) or to be licensed beyond the permitted age limit, any requests regarding exceeding the age limit must be put in writing to the Licensing Office at least 60 days before the expiry of the licence. The criteria to be considered for exceptional circumstances will include one or a combination of:
 - (a) Full service history of the vehicle
 - (b) Low mileage
 - (c) Excellent condition inside and out
 - (d) Wheelchair accessibility

APPENDIX D

Car Classification				
<u>American English</u>	<u>British English</u>	<u>European Commission classification</u> ^[4]	<u>Euro NCAP</u>	<u>Examples</u>
Mid-size car	Large family car	D-segment	Large family car	Ford Mondeo, Vauxhall Vectra, Toyota Avensis, VW Passat
Entry-level luxury car	Compact executive car			Audi A4, BMW 3 Series, Mercedes C-Class, Volvo S60
Full-size car		E-segment	Executive car	Holden Commodore, Vauxhall Omega, Chrysler 300C
Mid-size luxury car	Executive car			Audi A6, BMW 5 Series, Volvo S80, Jaguar XF, Mercedes E-Class, Lexus GS
Full-size luxury car	Luxury car	F-segment		Audi A8, BMW 7 Series, Lexus LS Jaguar XJ, Mercedes S-Class
Compact minivan	Compact MPV, Midi MPV	<u>M-segment</u>	Small MPV	Mazda5, Opel Zafira, Renault Scénic, VW Touran
Minivan	Large MPV		Large MPV	Ford Galaxy, Toyota Previa, Renault Espace, VW Sharan Mercedes M Class, BMW X5, Jeep Grand Cherokee, VW Touareg,
Mid-size SUV				
Full-size SUV	Large 4x4	J-segment**	Large Off-Road 4x4	Cadillac Escalade, Chevrolet Suburban, Range Rover, Toyota Land Cruiser Audi Q7

NOTES.

- (a) Only those vehicles that fall into the following Euro NCAP categories; Large family, Executive, Small MPV*, Large MPV, Large Off-Road 4x4 (European Commission classification D, E, F M* and J**)
- (b) In respect of the small MPV categories, these vehicles shall only be licensed to carry four passengers
- (c) Only the Large Off-Road 4x4 vehicles shall be licensed in the J segment

SLOUGH BOROUGH COUNCIL

REPORT TO: Licensing Committee **DATE:** 27th June 2017

CONTACT OFFICER: Michael Sims – Licensing Manager
(For all Enquiries) (01753) 477387
 Ginny de Haan – Head of Consumer Protection and
 Business Compliance
 (01753 477912)

WARD(S): **ALL**

PART I
FOR INFORMATION**HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING STATEMENT****1. Purpose of Report**

To inform the Committee of the preparation of the Hackney Carriage and Private Hire Licensing Statement.

2. Recommendation(s)/Proposed Action

The Committee is requested to note the report and details of the revised Hackney Carriage and Private Hire Licensing Statement.

3. The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan

The report outlines that the hackney carriage and private hire licensing regime is governed by Town Police Clauses Act 1847, the Local Government (Miscellaneous Provisions) Act 1976 and the Transport Act 1985 all of which place a duty on Slough Borough Council to carry out its licensing functions in respect of hackney carriage and private hire drivers, vehicles and operators, as well as all current Council approved policies relating to hackney carriage and private hire licensing.

Approved Council policy and procedure is regularly reviewed and either amended or superseded, as well as the applicable legislation constantly being amended.

The Licensing Statement is therefore meant to be an explanatory document that Summarises the requirements and the Council's policy and procedures in carrying out its duties for this licensing regime, similar to the 'Statements' for the Licensing Act 2003 and Gambling Act 2005 and will constantly be updated to keep abreast of any changes to policy and the legislation.

3a. Slough Joint Wellbeing Strategy Priorities –

As an explanatory document the Licensing Statement will be available in house and on the SBC website for any member of the public or prospective new applicant or indeed current licence holder to understand the Councils duties in relation to hackney carriage and private hire licensing.

The Licensing Statement will contribute to the Slough Joint Wellbeing Strategies Priorities of:

1. Protecting vulnerable children
2. Increasing life expectancy by focusing on inequalities

3b. **Five Year Plan Outcomes**

The new Hackney Carriage and Private Hire Licensing Statement will contribute to the Five Year Plan Outcomes of:

- Our children and young people will have the best start in life and opportunities to give them positive lives.
- Slough will be an attractive place where people choose to live, work and visit.
- Slough will attract, retain and grow businesses and investment to provide jobs and opportunities for our residents.

4. **Other Implications**

(a) Financial

There are no financial implications of proposed action.

(b) Risk Management

Recommendation	Risk/Threat/Opportunity	Mitigation(s)
From section 2 above	None	The Licensing Statement details only the current approved Council policies and procedures as well as the current legislation and does not contain anything that is not already in place. The document will be kept under constant review.

(c) Human Rights Act and Other Legal Implications

Section 1 and Schedule 1 Parts I & II of The Human Rights Act 1998 apply:

Article 1 – Every person is entitled to the peaceful enjoyment of his or her possessions including the possession of a licence and shall not be deprived of the possession except in the public interest.

Article 6 – That in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

(d) Equalities Impact Assessment

An Equality Impact Assessment has not been completed, as the information contained within Hackney Carriage and Private Hire Licensing Statement covers all legislation, policy and procedure that has been approved and currently in place and therefore there is no negative or adverse impact on any individual or any equality group.

5. Supporting Information

- 5.1 Members will be aware that the Hackney Carriage and Private Hire Licensing regime is governed by Town Police Clauses Act 1847, the Local Government (Miscellaneous Provisions) Act 1976 and the Transport Act 1985 which places a duty on Slough Borough Council to carry out its licensing functions in respect of hackney carriage and private hire drivers, vehicles and operators, as well as all current Council approved policies relating to hackney carriage and private hire licensing.
- 5.2 Currently all approved Council requirements, policies, procedures and relevant legislation applicable to hackney carriage and private hire licensing are contained within 'Policy and Conditions' booklets which were last updated in 2013.
- 5.3 Some requirements and conditions contained within the current 'Policy and Conditions' booklets for this licensing regime are now redundant, or have been superseded by amendments to legislation or by new and revised Council approved policies. For example but not limited to Safeguarding Training, Disclosure and Barring Service policy, Tinted windows in licensed vehicles, CCTV in licensed vehicles and the new provisions of the Immigration Act 2016.
- 5.4 As with a number of other local authorities, the licensing team has prepared a Hackney Carriage and Private Hire Licensing Statement (**attached at Appendix A**) similar to the Licensing Act 2003 Statement of Licensing Policy and the Gambling Act 2005 Statement of Licensing Principles.
- 5.5 The purpose of the licensing statement, is to be an explanatory document that summarises the requirements and the Council's policy and procedures in carrying out its duties for this licensing regime. It is not intended to be a comprehensive legal document detailing in full all requirements and approved policy. The licensing statement will be kept under constant review and update accordingly with any amendments or changes.
- 5.6 The licensing statement does not contain any new requirements or procedures that have not been previously approved or are not currently in place and therefore a consultation with the hackney carriage and private hire trade has not been conducted.
- 5.7 Having prepared the new licensing statement, the existing 'Policy and Conditions' booklets will be completely reviewed, removing all redundant areas, and only detailing the specific conditions applicable to a licence holder after the grant of a licence. All reference of the application process will also be removed, as this is a completely separate process which has to be completed in full before a licence is granted.

6. **Comments of Other Committees**

None.

7. **Conclusion**

For the Committee to note the report and the revised Licensing Statement.

8. **Appendices Attached**

'A' - Hackney Carriage and Private Hire Licensing Statement

9. **Background Papers**

'1' - Town Police Clauses Act 1847

'2' - Local Government (Miscellaneous Provisions) Act 1976

'3' - Transport Act 1985

'4' - Hackney Carriage Driver and Vehicle Policy and Conditions Booklet

'5' - Private Hire Driver and Vehicle Policy and Conditions Booklet

'6' - Private Hire Operator Policy and Conditions Booklet

Hackney Carriage and Private Hire Licensing Statement

Document Number	01
Version Number	01
Date approved	
Effective	
Contact Officers	Rachael Rumney – Senior Licensing Officer Mick Sims - Licensing Manager

Change History		
Version No	Date	Change Details
1.00		Draft Hackney Carriage and Private Hire Licensing Statement
2.00		

Related Documents	
Document Title	Location
Town Police Clauses Act 1847	
Local Government (Miscellaneous Provisions) Act 2976 (as amended)	
Rehabilitation of Offenders Act 1976	
Transport Act 1985	
DfT Best Practice Guidance	www.gov.uk
Road Safety Act 2006	
Deregulation Act 2015	
Immigration Act 2016	

If you have any further questions about this licensing statement or for further information, including applications forms and guidance, please contact:

Licensing Manager
Slough Borough Council
Landmark Place
High Street
Slough
SL1 1JL

Introduction

This Hackney Carriage and Private Hire Licensing Statement has been produced pursuant to the powers conferred by the Town Police Clauses Act 1847, the Local Government (Miscellaneous Provisions) Act 1976 and the Transport Act 1985 which places a duty on Slough Borough Council to carry out licensing functions in respect of hackney carriage and private hire vehicle, drivers and operators, as well as all current approved policies relating to hackney carriage and private hire licensing.

In carrying out these licensing functions, the Council will have regard to this licensing statement document. If the Council departs from this licensing statement, clear reasons will be given for doing so.

This licensing statement shall be kept under review and revised as necessary. The Head of Consumer Protection & Business Compliance is authorised to make minor amendments to the statement. In addition, amendments to this statement may be authorised without consultation by the Council.

The role of the Council

Objectives

- the protection of the public
- the maintenance of a professional and respected hackney carriage and private hire trade
- access to an efficient and effective local transport service
- the protection of our local environment

The Council will aim to achieve these objectives by;

- having a robust application process for new applicants and renewal applications that ensures high standards and that the 'fit and proper' test is met
- setting high standards for licensed vehicles
- having policies and procedures in place for the mechanical inspection of licensed vehicles
- encouraging and promoting the use of low emission vehicles
- enforcement activities, including the routine inspection of documents and vehicles, inspections of operating bases and multi-agency checks.
- working in partnership with a variety of other agencies to support the Councils objectives
- working openly and in conjunction with the private hire and hackney carriage trade

Types of licence

- Private hire driver licence
- Private hire vehicle licence
- Private hire operator licence
- Hackney carriage driver licence
- Hackney carriage vehicle licence
- Dual/Combined drivers licence

Definitions

For the purpose of this licensing policy statement:

'the application' shall mean the application made by an individual(s) or company for the grant or renewal of a licence.

'the council' shall mean Slough Borough Council

'authorised officer' shall mean any officer authorised by the Councils scheme of delegations.

'hirer' shall mean any person(s) who hires or books a vehicle

'licensee(s)' shall mean the person(s) named on the licence

'operator' shall mean any person or company granted a licence to operate private hire vehicles.

'LGMPA 1976' - Local Government Miscellaneous Provisions Act 1976

'Town Police Clauses Act 1847' - TPCA 1847

'Transport Act 1985' - TA 1985

Relevant legislation & guidance

The Department for Transport (DfT) is responsible for hackney carriage and private hire legislation in England and Wales. Their 'Taxi and Private Hire Vehicle Licensing: Best Practice Guidance' was issued in 2010. The Council has taken into account the DfT guidance when developing this policy along with any other relevant legislative requirements.

Equality Act 2010

The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. Sections 160 to 173 of the Equality Act 2010 relate specifically to taxis and private hire vehicles (PHVs) and takes effect on 6th April 2017.

Sections 165, 166 and 167 of the Equality Act 2010 deal with the imposition of duties on the drivers of wheelchair accessible taxis and private hire vehicles to assist passengers who use wheelchairs, as well as provides exemptions for both drivers and vehicles.

Duties to assist passengers in wheelchairs

Equality Act 2010 (Section 165) places a duty on a driver of designated wheelchair accessible hackney carriages and private hire vehicles. The duties are;

- To convey the passenger while in the wheelchair
- Not to make any additional charge for doing so

If the passenger chooses to sit in a passenger seat;

- To take such steps as are necessary to ensure that the passenger is conveyed in safety and reasonable comfort; and
- To give the passengers such mobility assistance as is reasonably required to enable the passenger to get in or out of the vehicle and to secure/convey the wheelchair as appropriate.

Section 166 of the Act allows Licensing Authorities to exempt drivers from the duties to assist passengers in wheelchairs if they are satisfied that it is appropriate to do so on medical grounds or because the drivers physical condition makes it unreasonably difficult for him or her to comply with the duties.

Section 167 of the Act allows Licensing Authorities to maintain a list of 'Designated Vehicles', that is, a list of wheelchair accessible vehicles in their area. The consequence of being on the list is that the driver must undertake the duties in section 165.

Guide dogs and assistance dogs (section 168 to 171 of Equality Act 2010)

Guidance has been issued by the DfT regarding the duties to carry guide and assistance dogs and the procedure for granting a medical exemption. When dealing with exemption applications the Council will have regard to the DfT guidance.

Administration of licences & fees

Applications for licences will only be determined once all required documentation and relevant fees have been received. The fees have been calculated to recover the cost for the administration of the licence.

Where a licence application is refused and a fee has been taken, that fee will be refunded to the applicant minus an administration fee.

Any additional costs incurred by the applicant such as a medical, driving assessment (which are paid directly to the provider), knowledge test or criminal record check will not be refunded.

If a licence is surrendered before the expiry date, a pro rata refund will be issued minus an administration fee. However, if the time remaining on a licence is 6 months or less, then no refund will be given.

The licence remains the property of the Council and must be returned if it has been suspended or revoked. Formal written notification of suspension or revocation will be given to the licence holder. If the licensee wishes to cancel a licence then the Council must be notified in writing and the licence returned.

Data protection

All information held on files and databases regarding an applicant or licence holder are confidential and subject to the requirements of the Data Protection Act 1998. Appropriate measures will be taken to ensure the data is held securely and can only be accessed by authorised officers.

The Council is under a duty to protect the public and to protect the public funds it administers. The Council may use any information provided by an applicant or licence holder within this authority.

The Council is under a duty to maintain public registers in accordance with the legislative requirements and all registers will be maintained through the Councils licensing database.

For crime prevention and for the purpose of protecting the public and/or protecting public funds we may also share any information held with other bodies responsible for public functions where there is a legal basis or a legal obligation to do so.

Safeguarding vulnerable persons & children

The Council is committed to ensuring the safety and welfare of all vulnerable persons including children and young people who may be travelling in licensed vehicles.

Safeguarding training is a mandatory requirement for all licensed drivers and private hire operators. A specific 'Safeguarding Passengers' training program has been developed by Slough Borough Council. All current driver and operator licence holders, along with new applicants must attend the training. Refresher training is required every 3 years.

Hackney carriage & private hire driver licences

Section 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 require that 'a district council shall not grant a drivers licence to drive a private hire or hackney carriage unless they are satisfied that an applicant is a fit and proper person'

Fit and proper person – new applicants

Before a private hire, hackney carriage or combined drivers licence can be issued, the Council must ascertain if the applicant is 'fit and proper' to hold a licence. The following requirements must be met;

- Enhanced criminal record check
- Certificate of medical fitness
- Practical driving assessment
- Knowledge test (directions, highway code, policy & law)
- Safeguarding training
- English test (if required)
- Aged 21 or over
- Held a full UK/EU driving licence for a minimum of 2 years
- Passenger Assistance training (PATS) - (if applicable)

Full details of all the requirements will be given at the time of application.

Fit and proper person – current licence holders

The Council may suspend an individual's private hire, hackney carriage or combined driver's licence, if a serious allegation or complaint is made against them and the 'fit and proper' test is in doubt.

The Council may revoke an individual's private hire, hackney carriage or combined driver's licence if they are no longer deemed to be 'fit and proper'. This may be with immediate effect or through a referral to the Licensing Sub-Committee for decision.

Knowledge test

Private hire & hackney carriage applicants should have good knowledge of the local area. In addition they should have an understanding of the legislative requirements and the Council's policies.

All new driver applicants must pass the Council's knowledge test. The test comprises of local geographical knowledge, policy and law, highway code and basic working out of fares. Applicants take the test on a computer, the questions are multiple choice and randomly generated.

Practical driving assessment

Private hire & hackney carriage applicants are required to complete and pass a practical driving assessment through a recognised driver testing agency.

If more than one year has elapsed (at the time of application) since an applicant undertook and passed a practical driving assessment, then a new assessment will be required.

A driving assessment may be required if concerns are raised over an existing licence holders driving ability. This may be due to (but not limited to) motoring convictions, multiple endorsements on DVSA licence, a history of complaints regarding their driving, involvement in road traffic accidents or officers concerns.

If an existing licence holder is required to undertake and pass a practical driving assessment, their drivers licence (hackney carriage, private hire or combined) will be suspended until they have passed the practical test.

Medical fitness

All driver applicants must produce a medical certificate using the Councils prescribed form. Applicants/licensed drivers must meet the DVSA group 2 medical standards of fitness to drive. The medical must be carried out by the applicants/licensed drivers registered practitioner (GP) or by a GP who has full access to their medical records. The medical certificate should be no more than 3 months old at the time the licence is issued.

Medical requirements for applicants/licensed drivers are as follows;

- When making a new driver application
- Every 5 years from 50 years of age
- Annually for 65 years of age.

Applicants or licensed drivers with insulin dependent diabetes will be required to have an annual medical.

Licensed drivers are required to notify the Licensing Authority of any illness, condition or any other matter that affects their ability to drive.

Where there is any doubt over an applicant's/licence holders medical fitness to drive, a new medical certificate will be required at their own expense. The Council will review the medical evidence and make any decision based on the medical evidence available.

Disclosure of criminal convictions, cautions and FPN's

New applicants and current licence holders must declare to the Council any criminal or civil conviction, caution, fixed penalty notice (FPN) or if they are subject to any pending prosecution.

Private hire & hackney carriage licensing is subject to The Rehabilitation of Offenders Act 1976 (Exceptions) (Amendments) 2002 which means convictions considered to be 'spent' must still be declared and can be taken into consideration when determining an application.

Disclosure & barring update service (DBS)

All new applicants and existing licence holders are required to register their DBS certificate with the Disclosure & Barring update service and must consent to the Council carrying out an annual check on the validity of the certificate.

Immigration Act 2016

The Immigration Act 2016 took effect on 1st December 2016 and places specific duties on local authorities with regards to both taxi and private hire driver and operator applicants and licence holders.

In summary the Act stipulates the following:

- Licensing authorities have to ensure applicants for taxi and private hire driver and Operator licences have permission to work before being granted a licence;
- Driver and operator licences would not be issued for a period any longer than the length of a person's permission to reside and work in the UK;
- Immigration offences and penalties would be grounds for a licensing authority to revoke a licence;
- It would be an offence for someone disqualified from continuing to hold a driver or operator licence for immigration reasons not to return their licence to the licensing authority.

Slough Borough Council operates the taxi and private hire licensing regime in compliance with the Immigration Act 2016 and the guidance issued by the Home Office.

English test

Applicants who cannot demonstrate an adequate or reasonable level of spoken English and/or a suitable qualification will be required to undertake an independent assessment of their spoken English. The purposes of this requirement are:

- Ensure that members of the public are safeguarded by ensuring licensed drivers can competently communicate and give and understand most instructions.
- Ensure that applicants are safeguarded by ensuring licensed drivers can competently communicate and give and understand most instructions.
- Ensure impartiality and fairness in determining applications.
- Accommodate all eligible applications.

Certificate of good conduct

If an applicant has lived in the UK for less than 5 years, then a 'certificate of good conduct' (or similar document) will be required from the relevant embassy. It is the applicant's responsibility to obtain the certificate and it should be in English or accompanied with a certified translation if not.

Passenger assistance training (PATs)

PATs is a practical training course relating to the needs of passengers with various disabilities. All hackney carriage and combined driver applicants are required to undertake PATs training. Private hire applicants/drivers who licence a wheelchair accessible vehicle are also required to undertake PATs training. Applicants must undertake and pass PATs modules A, B1, B2, C1 and C2.

Private hire & hackney carriage vehicle licence

General

The Transport Act 1985 allows licensing authorities to regulate vehicle standards. When licensing a vehicle for either, private hire or hackney carriage, the overriding consideration is the suitability and safety of the vehicle. The vehicle can seat no more than 8 passengers and should fall within the Vehicle Certification Agencies M1, M2 and M3 categories.

Where an application is received for a limousine or other such 'novelty' vehicle, then each application will be considered on its own merits. Additional documentation and inspections may be required before a decision can be made to licence such a vehicle.

Slough Borough Council is committed to providing the infrastructure for hybrid and electric vehicles by providing charging points at suitable locations. The Council will encourage and promote the licensing of low emission vehicles in line with the Council's Transport and Environmental strategies.

Vehicle age limit

A vehicle should be less than 5 years old when it is first licensed as a private hire or hackney carriage vehicle. Applicants must check the date of registration in the vehicle registration document (V5) before purchasing a vehicle.

A vehicle can remain licensed until it reaches 9 years of age. This may be extended subject to a written request from the licence holder and accompanying information such as the vehicles service history. An extension may be granted if the vehicle is in good condition both internally and externally. Additional considerations include a low mileage, wheelchair accessibility and low emissions.

Wheelchair accessible vehicles (WAVS)

Any vehicle that has been modified to accommodate a wheelchair must have all modifications and adaptations (including seats, seat belts and anchorages), retested to meet either European Whole Vehicle type approval or UK Low Volume type approval in the M1 category. Any vehicle meeting UK Single Vehicle Approval will not be accepted.

Certificate of Compliance

To ensure the mechanical safety of any vehicle being licensed, all vehicles must undergo a 'compliance' test. The Council has designated garages contracted to carry out the test. All vehicles (regardless of age) must have a compliance test.

The test comprises of the same mechanical checks specified by a DVSA MoT. In addition, extra checks of the vehicle will be made including (but not limited to) the external and internal condition of the vehicle.

Taximeters

Any meter being used in a licensed vehicle must have been fitted by an approved installer and have a certificate of calibration which should be produced at the time of licensing and renewal.

The proprietor and driver must not permit the taximeter and its fittings to be tampered with. This is an offence under section 71 of the LG(MP)A 1976.

Hackney carriage vehicle limit

At present Slough Borough Council has a numerical limit on the number of hackney carriage vehicle licences. The limit may be reviewed subject to a formal request from a recognised trade association or relevant party.

Any demand survey relating to hackney carriage services will be carried out by a specialist independent company following a commissioning process. The survey costs will be recovered through an increase in hackney carriage vehicle licence fees.

Dual plating

If a vehicle has already been granted with a private hire or hackney carriage vehicle licence with any other licensing authority, then the Council will refuse the application.

A licence will only be granted for the vehicle once the licence issued by the other licensing authority has been surrendered.

Road traffic accidents or vehicle damage

If a licensed vehicle has been involved in an accident or has been damaged then the Council must be informed with 72 hours of the accident. The vehicle should be inspected (if still in a drivable condition) by a licensing officer to assess the damage.

In accordance with section 68 of the LG(MPA) 1976 a 'Stop Notice' will be issued if the vehicle has suffered damage that is detrimental to its use as a licensed vehicle. Public and passenger safety will be the priority when making a decision regarding suspending the vehicle licence.

CCTV in licensed vehicles

Slough Borough Council has formally approved guidelines relating to the installation of CCTV. It is not a mandatory requirement for any licensed vehicle to be fitted with CCTV equipment; however, Slough Borough Council must be notified in writing of any currently installed system or the intention to install any such system to a licensed vehicle.

The Council's guidelines set out to ensure that any CCTV systems installed in hackney carriage and private hire vehicles licensed by Slough Borough Council are properly used to:

1. Deter, prevent and detect crime
2. Reduce the fear of crime
3. Assist the Police in investigating incidents of crime
4. Ensure the security and safety of Hackney Carriage, Private Hire drivers and passengers; and
5. Assist insurance companies in investigating motor vehicle accidents

Private hire operator's licences

All applicants for an operator's licence are required to show that they are 'fit and proper' persons to hold a licence. The applicant must submit such information as deemed reasonably necessary to determine the application. This includes;

- A basic criminal record check (issued within the last 3 months)
- Public liability insurance
- A full list of all drivers and vehicles working under the operator licence

Operating base & planning permission

The operating base must be located within Slough Borough Council's boundaries. The premises where the operating base is located will be periodically inspected by authorised officers to ensure compliance with relevant legislation and the Council's licensing conditions.

Planning permission for the operating base is not a necessary requirement for the grant or renewal of a licence, however it is advised that the planning authority is contacted before the business commences to ensure compliance with planning law.

Records & bookings

The operator is responsible for maintaining driver and vehicle records in accordance with the council's policy. These records must be accurate, legible and immediately available for inspection by an authorised officer.

Operators are required to keep a record of all accepted bookings. This includes any bookings that are subsequently sub-contracted to another licensed operator. The booking record should include;

- Pick up point and destination
- Date
- Time of booking
- Name of person making the booking
- Driver & vehicle allocated booking (including 'call sign')

All booking records should be kept for a minimum period of 6 months. Where records are held on a computerised database, the operator must be able to provide printed copies or be able to provide the information in a format that is accessible to authorised officers.

Operators must keep accurate and legible records of all drivers and vehicles working under their operator's licence. This must include;

- Name, address and contact number of licensed driver
- A copy of their DVSA drivers licence
- A copy of their private/hackney carriage drivers licence
- Vehicle details including registration, make, model, licence number
- A copy of the vehicle licence
- A copy of the certificate of compliance
- A copy of the vehicle insurance

Sub-contracting of bookings

The Deregulation Act 2015 has amended section 55 of LG(MP)A 1976 to allow the sub-contracting of bookings to any other licensed private hire operator.

If a booking is to be sub-contracted, the operator must inform the hirer of their intention to pass the booking to another licensed operator. A record of the booking must be kept by both operators and the operator who accepted the booking initially must keep a record of who the booking was sub-contracted too.

Advertising

All advertising on hackney carriage and private hire vehicles must be authorised by the council. Operators should provide the Council with samples of their logos and vehicle signage for formal approval.

The words 'taxi', 'cab', 'for hire' or 'hackney carriage' are not permitted on private hire vehicles

Mobile applications (Apps)

'Apps' must be approved by the Council prior to their launch and must adhere to the record keeping requirements of the Council and any other relevant legislation. Operators should ensure that any app complies with the Data Protection Act 1998 with regards to the use and storage of customer's personal information.

Departure from licensing policy

In exercising its discretion in carrying out its functions, the Council will have regard to this licensing statement and the objectives detailed within it. The Council will consider each application and enforcement action on its own merits.

In certain circumstances, the Council may depart from this licensing statement and will give clear and substantive reasons for doing so. Departure from the licensing statement does not set a precedent for future decisions.

Convictions and conduct – new applicants

Definitions

"Free of convictions" shall mean from the date the applicant was convicted. If the incident did not amount to a criminal offence or it is not to be prosecuted, then the relevant date will be the date of the incident.

"Offence" shall mean any criminal offence and/or any other behaviour including a civil penalty which brings into question whether the applicant is a fit and proper person.

The Rehabilitations of Offenders Act 1976 (Exceptions)(Amendments) 2002 allows the Council to take into account all convictions recorded against an applicant or holder of a hackney carriage or private hire drivers licence whether spent or not.

In this statement, conviction shall mean a criminal conviction or a civil penalty. However if the applicant is on trial, is not to be convicted or the incident did not amount to a criminal offence, the suggested periods free from convictions shall be considered by the Council when making their decision, taking all the evidence before them into account.

Some discretion may be appropriate if the offence and/or behaviour is isolated and there are mitigating circumstances. Equally the history of offending (including multiple offences/combinations of offences /types of offences) and/or behaviour may warrant a longer period free from convictions.

Accordingly an applicant may have a number of convictions that, individually, meet the timescales details in the Councils 'Conviction and Cautions' policy, the overall offending history must be considered when assessing the applicant's suitability to be licensed.

A series of civil or criminal offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Obviously some discretion can be afforded if an offence is isolated and there are mitigating circumstances, but **the overriding consideration is the protection of the public.**

Simply remaining free of convictions will not necessarily be sufficient to show that a person is fit and proper where other circumstances /evidence bring this into question. Furthermore it should always be remembered that the periods free of conviction in this section are suggested minimums.

Whilst the time period detailed in this section provides guidance to potential applicants on how long they should wait before applying for a license following described offences/convictions, any application made following these guidelines is still subject to the same considerations of whether the applicant is fit and proper, and therefore simply following the guided timescales does not guarantee the granting of a license.

Notwithstanding and without prejudice to any other provision within this document, ordinarily the Council would, as a minimum, expect the standard rehabilitation periods identified in the Rehabilitation of Offenders Act 1974 to have expired.

Criminal convictions or civil penalties will be considered by officers or, in cases of doubt, by the licensing sub-committee.

An application from any person awaiting trial for an offence which brings into question whether they are a fit and proper person (including but not limited to death by dangerous driving, drugs, violence, sexual offences, dishonesty, driving under the influence of drugs or alcohol or offences of a habitual nature) will not normally be considered until the outcome of the trial and any subsequent appeal.

For the Council to fully consider the case on its merit, the applicant should provide a written statement of the offences (including any that they are awaiting trial for), with evidence, covering the 7 points in the paragraph below, which would be available for examination by the Council.

If the Council becomes aware of issues including previous criminal history/convictions, any arrest, any charges, inappropriate behaviour for a hackney carriage/private hire driver and/or significant comments on any DBS check, consideration will be given to each applicant's suitability for licensing against the following criteria:

1. Nature of the offence/conduct/charge
2. Circumstances in which the offence/conduct/charge/ was committed.
3. Subsequent periods of good behaviour
4. Overall conviction/behaviour history
5. Sentence imposed by the court
6. Seriousness of the offence/conduct/charge
7. Taking all the above issues into account, with any other relevant issues, whether the protection of the public may be at risk.

Each case will be considered on its own merit.

Slough Borough Council regulatory & enforcement services enforcement policy

Slough Borough Council's Regulatory and Enforcement Services Enforcement Policy commits the Council to good enforcement practice with effective procedures and clear policies. Specifically in relation to private hire and hackney carriage drivers the policy details the following:

- Where a new applicant for a hackney carriage or private hire drivers licence or an existing licence holder has been convicted or is subsequently convicted of any offence of dishonesty, a licence will not be granted, will not be renewed and will be either suspended or revoked with immediate effect where it is deemed necessary in the interests of public safety to do so.
- Where a new applicant for a hackney carriage or private hire drivers licence has been convicted of any offence of indecency or violence or any other criminal offence of a serious nature, a licence will not be granted, until the applicant is free from conviction for at least a period of 10 years (the date when the conviction becomes spent being the start date for the calculation of the 10 year period)
- Where an existing hackney carriage or private hire driver licence holder is convicted, during the period of the licence, of any offence of indecency or violence or any other criminal offence of a serious nature, the licence will be either suspended or revoked with immediate effect, and any new application will not be considered until the applicant is free from conviction for at least a period of 10 years (the date when the conviction becomes spent being the start date for the calculation of the 10 year period)

Whilst each case will be considered on its own merits, the protection of the public is paramount.

Compliance & enforcement

The Council will work in partnership with other agencies and neighbouring authorities to undertake compliance and enforcement activities. The Council will carry out enforcement operations and compliance checks which may include Thames Valley Policy, DVSA, UKBA and HMRA.

Inspections of vehicles, operating bases, documents and records will be made by licensing officers. These may be pre-arranged audits, random checks or scheduled enforcement operations.

Document Checks

All documents produced to licensing officers must be originals and will be checked for authenticity. Random checks will be carried out throughout the year, along with routine compliance inspections.

Complaints & enforcement action

All complaints against licence holders must be received in writing. The complaint will then be fully investigated by licensing officers and appropriate action will be taken where necessary.

The hackney carriage and private hire licensing regime is in place to ensure passenger safety. The DfT guidance states enforcement is necessary to maintain high standards. Any enforcement action taken against a licensee must be reasonable and proportionate.

Officers will have regard to the 'Consumer Protection and Business Compliance' enforcement policy.

Depending on the nature and the seriousness of the offence/breach, there are various enforcement options available to officers. These options include the following;

- Verbal advice
- Written warning
- Penalty points
- Suspension
- Formal caution
- Prosecution
- Revocation

Penalty points

The penalty points system provides an effective enforcement tool for licensing officers in respect of hackney carriage and private hire driver and vehicle licence holders, as well as private hire operators who are in breach of conditions or legal requirements relating to the licensing functions of the Council.

The penalty points system is an alternative to officers prosecuting or referring licence holder to the Licensing Sub-Committee.

The system operates like the endorsements on a DVSA driving licence. Where 12 unspent penalty points are accumulated by a licence holder, an automatic referral to the Licensing Sub-Committee is triggered.

Where a referral is made to a Licensing Sub-Committee, it will be the Committee's decision on what further action (if any) should be taken.

Where penalty points are issued by a licensing officer and the licence holder wishes to dispute the matter, the licence holder may request that the matter be referred to a Licensing Sub-Committee.

Where a complaint or information is received from the Police or a member of the public the matter will be investigated by a licensing officer and may result in the issue of penalty points.

Any licence holder has the right to appeal against a Licensing Sub-Committee decision to the Magistrates Court within 21 days of notification of the Committee's decision.

Referral to Licensing Sub-Committee

New applicants and current licence holders will usually be referred to the Licensing Sub-Committee if there is any doubt that they meet the 'fit and proper' test to be a licensed driver. This may be due to the following

- a conviction(s),
- caution(s),
- additional information disclosed on the DBS certificate
- their previous conduct if they have been licensed before.

Licensing officers will prepare a report detailing the facts of the case along with any other relevant evidence that can assist the members in their decision.

Any decision made by the Sub-Committee will be made in writing, detailing fully how and why the decision was made. The right to appeal a Licensing Sub-Committee decision is to the Magistrates Court within 21 days of notification of the Committee's decision.

Revocation of a drivers licence

If a private hire or hackney carriage driver's licence is revoked, then a minimum period of 1 year should have elapsed before a new application will be considered.

This period of time may be extended depending on the circumstances of the revocation.

Immediate revocation of a drivers licence

If a licensed driver is under investigation regarding a serious complaint or criminal offence and there is serious concern regarding that individual's suitability to be a licensed driver, the licence can be immediately revoked under section 52 of the Road Safety Act 2006.

Powers have been delegated to the Licensing Manager who, in consultation with the Chair of the Licensing Committee, can revoke a driver's licence with immediate effect. When a licence is immediately revoked, the decision will be made in writing and will be personally served on the licence holder as soon as is reasonably practicable.

Appeals

Where a licence has been suspended or revoked or where a new application has been refused, an appeal against the decision by the Council may be made to the Magistrates Court within 21 days of the notice of refusal, revocation or suspension.

Reinstatement of a revoked licence

If a licence has been revoked with immediate effect, but following investigation no further action is taken and the Council believes that individual remains 'fit and proper', a new application can be made and the licence re-instated. The Council will, where possible, make concession to the application process.

Glossary

Approved policies and guidelines

- **Private hire & hackney carriage driver policy**
- **Private hire & hackney carriage vehicle policy**
- **Private hire operator policy**
- **Conviction & caution policy**
- **Tinted window policy**
- **Wheelchair accessible & purpose built vehicle policy**
- **Tinted window policy**
- **Advertising policy**
- **CCTV guidelines**

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SLOUGH BOROUGH COUNCIL

REPORT TO: Licensing Committee **DATE:** 27th June 2017

CONTACT OFFICER: Michael Sims, Licensing Manager
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WARD(S): ALL

PART I
FOR INFORMATION

IMPLEMENTATION OF THE NEW PROVISIONS OF SECTIONS 165 AND 167 OF THE EQUALITY ACT 2010

1. **Purpose of Report**

To inform the Committee of the implementation of sections 165 and 167 of the Equality Act 2010 that took effect on 6th April 2017

2. **Recommendation(s)/Proposed Action**

The Committee is requested to note the report.

3. **The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan**

The report outlines in full the implementation of Sections 165 and 167 of the Equality Act 2010 that took effect on 6th April 2017 in relation to:

(i) Mandatory duties now placed on all drivers of designated wheelchair accessible vehicles being either a taxi or a private hire vehicle which is placed on the Council's list of designated vehicles (hereinafter called "designated vehicles"); and

(ii) the Council's intention to maintain a list of all designated vehicles.

The purpose of the additional provisions is intended to assist passengers in wheelchairs in their use of designated vehicle services.

It is also a criminal offence for drivers of designated vehicles to refuse to carry passengers in wheelchairs, or to fail to provide them with appropriate assistance, or to charge them extra.

3a. **Slough Joint Wellbeing Strategy Priorities**

The new provisions are a mandatory national requirement for all drivers and proprietors of designated vehicles, other than where a valid exemption has been applied for and granted.

The new provisions will contribute to the Slough Joint Wellbeing Strategies priorities of:

Priorities:

1. Protecting vulnerable children
2. Increasing life expectancy by focusing on inequalities
3. Improving mental health and wellbeing

3b. **Five Year Plan Outcomes**

The new provisions will contribute to the Five Year Plan with the specific outcomes of:

- Our children and young people will have the best start in life and opportunities to give them positive lives.
- Our people will become healthier and will manage their own health, care and support needs.
- Slough will be an attractive place where people choose to live, work and visit.
- Slough will attract, retain and grow businesses and investment to provide jobs and opportunities for our residents.

4. **Other Implications**

(a) Financial

There are no financial implications of proposed action.

(b) Risk Management

Recommendation	Risk/Threat/Opportunity	Mitigation(s)
From section 2 above	There are no threats or opportunities as the new provisions under the Equality Act 2010 are a mandatory requirement for the drivers and proprietors of all designated vehicles.	Section 172 of the Equality Act 2010 provides drivers and vehicle proprietors with statutory right of appeal against the refusal for an exemption from carrying out the duties under section 165 and of the Council's intention to put the vehicle on the list of designated vehicles.

(c) Human Rights Act and Other Legal Implications

Section 1 and Schedule 1 Parts I & II of The Human Rights Act 1998 apply:

Article 1 – Every person is entitled to the peaceful enjoyment of his or her possessions including the possession of licence and shall not be deprived of the possession except in the public interest.

Article 6 – That in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

(d) Equalities Impact Assessment

An Equality Impact Assessment has not been completed as the new provisions/requirements are laid down in statute and applicable to all drivers and proprietors of designated wheelchair accessible vehicles in England and Wales, and therefore there is no negative or adverse impact on any individual or any equality group.

5. Supporting Information

- 5.1 A full report was put before the Licensing Committee on 23rd February 2011 detailing the provisions of the Equality Act 2010 in relation to Hackney Carriage and Private Hire Drivers and Vehicles, some of which took effect on 1st October 2010.
- 5.2 The Committee resolved to recommend to Council the specific areas detailed in section 6 below in relation to maintaining a list of designated vehicles, medical exemptions and drivers of designated vehicles to undergo passenger assistance training. The internal procedures for applications for medical exemptions have been in place since 2011.
- 5.3 At the time of the original report, an official date had not been set for the provisions in Section 165 (duties placed on drivers of designated vehicles) other than not before April 2011.
- 5.4. In relation to the Committee approving maintaining a list of designated vehicles, at that time the Department of Transport (“DfT”) stated that the list would have no actual effect in law until the provisions of Section 165 (duties) had taken effect, albeit the DfT did recommend that local authorities should start maintaining a list.
- 5.5 On the 6th April 2017 the provisions of Sections 165 and 167 officially took effect with Secretary of State for the DfT publishing guidance for licensing authorities titled – “Access for wheelchair users to taxi and private hire vehicles.”

Guidance issued by the Secretary of State.

- 5.6 The Secretary of State has now issued guidance to licensing authorities as to the accessibility requirements which they should apply and any other aspect of their functions under or by virtue of this section. Any local authority that will maintain a list must have regards to the guidance.
- 5.7 The Secretary of State has also advised that local authorities should put in placed sensible and manageable **transitional arrangements and procedures** to ensure full implementation of sections 165,166 and 167, and in light of this it is proposed to make the effective date for this full implementation 1st October 2017. This will ensure that all owners of ‘designated vehicles’ have been informed of the new requirements and to allow for any appeal against the refusal of an exemption to be heard at the Magistrates Court. The DfT in its guidance has produced a flowchart for the suggested transitional arrangements which is attached at **Appendix A.**

Section 165

- 5.8 This section places a statutory duty on all licensed drivers of **designated vehicles** (see s.167) to carry wheelchair users or a person who wishes to be accompanied by a disabled person who is in a wheelchair.

The duties placed on the driver of a **designated vehicle** under section 165 include:

- (a) to carry the passenger while in the wheelchair;
- (b) not to make any additional charge for doing so;
- (c) if the passenger chooses to sit in a passenger seat, to carry the wheelchair;
- (d) to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;
- (e) to give the passenger such mobility assistance as is reasonably required;

Mobility Assistance

“Is assistance:

- (a) to enable the passenger to get into or out of the vehicle;
- (b) if the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair;
- (c) to load the passenger's luggage into or out of the vehicle; and
- (d) if the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle”.

Section 166

- 5.9 This section requires a local authority to issue eligible drivers with a medical exemption certificate to exempt them from section 165 duties. The medical exemption procedure is already in place in Slough.

- Since October 2010 any driver of such a vehicle has been able to apply for an exemption from the duties on:
 - (i) medical grounds; or
 - (ii) because the driver's physical condition makes it impossible or unreasonably difficult to comply with Section 165 duties.
- Applications for exemption are subject to – evidence of the medical grounds being verified by a medical practitioner, the consultant treating the condition or an independent medical examiner at the driver's own cost. In addition the medical practitioner or other will have to complete a declaration detailing the full reasons why the driver is prevented from carrying out the duties under Section 165.
- The Licensing Committee has delegated to the Licensing Manager the power to grant exemptions on medical grounds, with all other applications for exemptions on physical capabilities to be referred to the Licensing Committee. The prescribed notice of exemption must be exhibited in the taxi or private hire vehicle.

Appeals – Section 172 of the 2010 Act enables drivers to appeal against the decision of a Local Authority **not** to issue an exemption certificate. That appeal

should be made to the Magistrates Court, and must be made within 28 days beginning with the date of the refusal.

Section 167

- 5.10 This section empowers a local authority to maintain a list of **designated vehicles**. The designation will apply to vehicles that are:
- (i) **either a taxi or a private hire vehicle, and**
 - (ii) the vehicle conforms to such accessibility requirements as the licensing authority thinks fit.

In relation to this, Section 3 of the guidance issued by the Department for Transport states the following;

3.3 We want to ensure that passengers in wheelchairs are better informed about the accessibility of the taxi and PHV fleet in their area, confident of receiving the assistance they need to travel safely, and are not charged more than a non-wheelchair user for the same journey.

3.4 The Act states that a vehicle can be included on a licensing authority's list of designated vehicles if it conforms to **such accessibility requirements as the licensing authority thinks fit**. However, it also goes on to explain that vehicles placed on the designated list should be able to carry passengers in their wheelchairs should they prefer.

3.5 This means that to be placed on a licensing authority's list a designated vehicle must be capable of carrying some – but not necessarily all – types of occupied wheelchairs. The Government therefore recommends that a vehicle should only be included in the authority's list if it would be possible for the user of a **"reference wheelchair"** to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair.

3.6 Taking this approach allows the provisions of section 165 of the Act to apply to a wider range of vehicles and more drivers than if LAs only included on the list vehicles capable of taking a larger type of wheelchair.

3.7 The Government recognises that this approach will mean that some types of wheelchair, particularly some powered wheelchairs, may be unable to access some of the vehicles included in the LA's list. The Act recognises this possibility, and section 165(9) provides a defence for the driver if it would not have been possible for the wheelchair to be carried safely in the vehicle. **Paragraph 3.10** of this guidance below aims to ensure that users of larger wheelchairs have sufficient information about the vehicles that will be available to them to make informed choices about their journey.

3.10 LAs should ensure that their designated lists are made easily available to passengers, and that vehicle owners and drivers are made aware.

Lists should set out the following;

- **details of the make and model of the vehicle;**
- **specifying whether the vehicle is a taxi or private hire vehicle;**
- **state the name of operator.**

Where possible it would also be helpful to include

- **information about the size and weight of wheelchair that can be accommodated, and;**
- **whether wheelchairs that are larger than a “reference wheelchair” can be accommodated.**

Appeals – Section 172 of the Act enables a vehicle owner to appeal against the decision of the local authority to include its vehicle as a “designated vehicle” on the list. That appeal should be made to the Magistrates Court, and must be made within 28 days of the vehicle in question being included on the local authorities published list.

Passenger Assistance Training

- 5.11 All drivers and owners of designated vehicles that have not previously undergone Passenger Assistance Training must complete the training and produce the certificate to the licensing team by 1st October 2017.
- 5.12 To assist the licensing team in implementing the new procedures, all hackney carriage and private divers and proprietors of designated vehicles have been informed in writing of the new provisions having taken effect and the impact of the new duties, as well as the need for completing passenger assistance training if not already completed. The new provisions have also been published in the latest Taxi and Private Hire Newsletter.
- 5.13 All licence holders have also been provided with and have been asked to complete a questionnaire to be completed and returned to the Licensing Office, which will assist in preparing and publishing the list of designated wheelchair accessible vehicles.

6. Comments of Other Committees

A full report on the then implemented provisions of the Equality Act 2010 was put before the Licensing Committee on 23rd February 2011. The Committee resolved as follows:

Recommended to Council –

- (a) That a list of all designated vehicles be maintained.
- (b) That the Licensing Manager be given delegated authority to grant exemptions on medical grounds following evidence from a medical practitioner, consultant or independent GP. All other applications for exemption based on physical capabilities e.g. weight, strength and height shall be referred to the Licensing Sub-Committee.
- (c) That all drivers of designated vehicles that have not previously undergone passenger assistance training must do so by 30th April 2011 or at the earliest opportunity to be able to comply with the new duties.

7. Conclusion

That the Committee note the contents of the report.

8. **Appendices Attached**

'A' - Flow Chart

9. **Background Papers**

'1' - Equality Act 2010

'2' - Statutory Guidance issued by the Secretary of State for the Department of Transport

Flowchart

Step 1.

Licensing Authorities review this guidance document and compare against any existing policies

Step 2.

Licensing Authorities prepare draft lists of designated wheelchair accessible vehicles

Step 3.

Licensing Authorities set out policies for exempting drivers on medical and physical condition grounds

Step 4.

Licensing Authorities inform owners that their vehicles will be placed on the list and alert drivers to their upcoming duties

Step 5.

Drivers apply for exemptions where necessary

Step 6.

Licensing authority issues exemptions

Step 7.

Licensing authority publishes list of designated wheelchair accessible vehicles and duties on drivers take effect

SLOUGH BOROUGH COUNCIL

REPORT TO: Licensing Committee **DATE:** 27th June 2017

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PART I
INFORMATION, COMMENT & DECISION

AMENDMENTS TO THE LICENSING ACT 2003 BY THE POLICING AND CRIME ACT 2017 AND THE IMMIGRATION ACT 2016.

1. **Purpose of Report**

To update the Licensing Committee on changes to the Licensing Act 2003 and associated legislation through amendments by the Policing and Crime Act 2017 and the Immigration Act 2016, to prevent illegal working and improve the effectiveness of the alcohol licensing regime in preventing crime and disorder.

2. **Recommendation(s)/Proposed Action**

The Committee is requested to:

- (a) Note the amendments to the Licensing Act 2003;
- (b) Note the provisions for the Secretary of State to provide Statutory Guidance on Protecting Children and Vulnerable Adults, and
- (c) Approve the amended Delegations of the Licensing Committee with regard to the Licensing Act 2003.

3. **The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan**

The report outlines in full the amendments to the Licensing Act 2003 by both the Immigration Act 2016 and the Policing and Crime Act 2017 that came in effect on 6th April 2017.

The Immigration Act 2016 provides new measures to ensure that certain licence holders for the sale of alcohol and late night refreshment have the correct legal entitlement to obtain a licence and to work in licensed premises with the additional priority to prevent illegal working in licensed premises or to hold a personal licence.

The amendments to the Licensing Act 2003 by the Policing and Crime Act 2017 clarify the law on summary reviews of premises licences, grant licensing authorities powers to revoke or suspend personal licences when the holder is convicted of a relevant offence, add further offences to the list of relevant offences and amend the definition of alcohol to include powdered and vaporised alcohol. This will ensure that the police and other law enforcement agencies as well as licensing authorities have the

powers they need to prevent, detect and investigate crime, and improve the effectiveness of the alcohol regime in preventing crime and disorder.

3a. **Slough Joint Wellbeing Strategy Priorities**

The amendments to the Licensing Act 2003 provides licensing authorities with new powers to prevent illegal working in licensed premises as well as powers to revoke or suspend a Personal Licence where the licence holder has been convicted of a relevant, foreign offence or an immigration offence or immigration penalty.

The Secretary of State for the Home Office (Immigration) as a responsible Authority can now also make objections to a personal licence being granted, ask for conditions to be imposed on a premises licence as well as requesting a review of a premises licence.

The amendments will contribute to the Slough Joint Wellbeing Strategy priority of:

1. Protecting vulnerable children.

3b. **Five Year Plan Outcomes**

The amendments to the Licensing Act 2003 will contribute to the Five Year Plan with the specific outcomes of:

- Our children and young people will have the best start in life and opportunities to give them positive lives.
- Slough will be an attractive place where people choose to live, work and visit.
- Slough will attract, retain and grow businesses and investment to provide jobs and opportunities for our residents.

4. **Other Implications**

(a) Financial

There are no financial implications involved in the proposed act.

(b) Risk Management

Recommendation	Risk/Threat/Opportunity	Mitigation(s)
As detailed in section 2 above	None – All new provisions and requirements are set down in statute.	The amendments now ensure that only those persons with the correct legal entitlement to work can work in licensed premises, as well as providing the Licensing Authority with powers to revoke or suspend a Personal Licence where the licence holder has been convicted of specific offence as laid down in statute.

(c) Human Rights Act and Other Legal Implications

Section 1 and Schedule 1 Parts I & II of The Human Rights Act 1998 apply:

Article 1 – Every person is entitled to the peaceful enjoyment of his or her possessions including the possession of licence and shall not be deprived of the possession except in the public interest.

Article 6 – That in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

(d) Equalities Impact Assessment

An Equality Impact Assessment has not been completed as all the new provisions/requirements are laid down in statutory, and therefore there is no negative or adverse impact on any individual or any equality group.

5. Supporting Information

5.1 Immigration Act 2016

5.2 The Licensing Act 2003 (the 2003 Act) sets out the licensing regime for the sale and supply of alcohol, the provision of entertainment and the provision of late night refreshment in England and Wales. Section 36 of, and Schedule 4 to the Immigration Act 2016 (the 2016 Act) amends the 2003 Act and introduces immigration safeguards in respect of licensing applications made in England or Wales on or after 6 April 2017. The intention is to prevent illegal working in premises licensed for the sale of alcohol or late night refreshment.

5.3 The guidance for local authorities issued by the Home Office emphasises that the statutory prevention of crime objective in the 2003 Act includes the prevention of immigration crime and the prevention of illegal working in licensed premises. Licensing authorities should work with the Home Office (Immigration Enforcement) as well as the police, in respect of these matters.

5.4 In summary the new immigration measures are:

- Premises licences to sell alcohol or provide late night refreshment and personal licences cannot be issued to an individual who does not have permission to be in the UK, or is not entitled to undertake work relating to the carrying on of a licensable activity;
- Licences issued to those with limited permission to be in the UK will lapse when their permission to be in the UK and work in a licensable activity comes to an end;
- Immigration offences, including civil penalties, become ‘relevant offences’ as defined by the 2003 Act;
- The Home Secretary (in practice Home Office (Immigration Enforcement)) is added to the list of responsible authorities in the licensing regime, which requires Home Office (Immigration Enforcement) to receive premises licence

applications (except regulated entertainment only licences), and in some limited circumstances personal licence applications, and permits Home Office (Immigration Enforcement) to make appropriate representations and objections to the grant of a licence; and

- Immigration officers are permitted to enter premises which they have reason to believe are being used to sell alcohol or provide late night refreshment, to investigate whether immigration offences are being committed in connection with the licensable activity.

5.5 The new provisions apply to the following types of application on or after 6th April 2017:

- A new application for a premises licence for alcohol and late night refreshment
- An application to vary a premises licence for alcohol and late night refreshment
- Application for the transfer of a premises
- Applications for minor variations - *considered by the licensing authority to require consultation with the Home Office.*
- An Interim Authority, and
- Application for a new Personal Licence

Premises Licence

5.6 In addition The Secretary of State (Home Office) becomes a responsible authority within the definition of the 2003 Act. This will allow the Immigration Service to make representations against the grant or variation of a premises licence application. An applicant applying for a new premises licence, transfer of an existing licence or service of an interim notice not only has to be over the age of 18, but will also have to hold leave to work in the United Kingdom. In a hearing convened due to the Secretary of State's objection, the Licensing Authority must reject the application if it considers it appropriate for the prevention of illegal working in licensed premises to do so.

5.7 Under the current framework, a premises licence will lapse on the death, incapacity or insolvency of a premises licence holder. The premises licence will now also lapse if the licence holder ceases to be entitled to work in the United Kingdom.

Personal Licence

5.8.1 An applicant will not be able to apply for a personal licence if he or she is not entitled to work in the United Kingdom.

5.8.2 An existing personal licence will lapse if an individual ceases to be entitled to work in the UK or becomes resident without being entitled to work. The list of 'relevant and foreign offences' in relation to personal licences has been expanded to include 'immigration offences and immigration penalties' (see point 6.17 below). The Secretary of State must consider such offences when determining whether the grant of a personal licence would be prejudicial to the prevention of

illegal working in licensed premises.

- 5.8.3 The requirements to demonstrate immigration status are not retrospective, so there is no need to check the immigration status of individuals with licences issued before 6 April 2017.

Right of Entry to Licensed Premises

- 5.9 Section 179 of the Licensing Act 2003 in relation to rights of entry to investigate licensable activities, has been amended by the 2016 Act, so that where an immigration officer has reason to believe that any premises is being used for the sale of alcohol or provision of late night refreshment, the officer may enter the premises without a warrant, with a view to seeing whether an offence under any of the Immigration Acts is being committed in connection with the carrying on of these licensable activities.
- 5.10 Immigration officers, like police officers, are not authorised persons within the 2003 Act, but they are separately empowered by the Act to carry out their duties. The effect is to facilitate joint enforcement operations with licensing enforcement officers, and other bodies that inspect workplaces for compliance. The power of entry may also be used by Immigration, Compliance and Enforcement (ICE) teams operating on their own, to investigate illegal working following receipt of intelligence on premises they have reason to believe are being used for a licensable activity.

6. Policing and Crime Act 2017

6.1 Taxi and Private Hire Licensing – Statutory Guidance on Protecting Children and Vulnerable Adults.

- 6.2 Section 177 of the 2017 Act provides that the Secretary of State may issue guidance to public authorities as to how their licensing functions under taxi and private hire vehicle legislation may be exercised so as to protect children, and vulnerable individuals who are 18 or over, from harm. The Secretary of State is also empowered to revise any guidance and must publish any guidance or revision of it.
- 6.3 Any public authority which has licensing functions under taxi and private hire vehicle legislation must have regard to any guidance issued under this section. Before issuing the guidance, the Secretary of State must consult with a wide range of stakeholders including the police, licensing authorities and representatives of taxi and private hire licence holders. Section 177 was commenced on Royal Assent and it is anticipated that the Secretary of State will begin consultation on the draft guidance in due course.

Licensing Act

- 6.4 The Policing and Crime Act 2017 took effect as of 6th April 2017 and makes a number of amendments to the Licensing Act 2003 as detailed below:
- 6.5 The changes to the Licensing regime, detailed below, are contained within the Policing and Crime Act 2017, with the aim to improve the effectiveness of the alcohol licensing regime in preventing crime and disorder.

Meaning of “alcohol”

- 6.6 Section 191 of the 2003 Act defines alcohol as “spirits, wine, beer, cider or any other fermented, distilled or spirituous liquor”. This is amended by Section 135 of the 2017 Act to include alcohol in any state, so as to clarify that powdered alcohol and vaporised alcohol are to be regulated in the same way as liquid alcohol.

Interim steps pending review: representations

- 6.7 Section 53A of the 2003 Act provides for the police to make an application for a summary review of a premises licence, if the relevant premises are associated with serious crime or serious disorder. The licensing authority must consider the application within 48 hours and impose ‘interim steps’ (temporary conditions) if necessary.
- 6.8 When a licensing authority considers an application for a summary review, it may take interim steps without first giving the holder of the premises licence an opportunity to make representations. This is because in instances of serious crime and serious disorder it may be necessary to take immediate action in order to protect the public. Section 53B of the 2003 Act allows the licence holder to make representations after the interim steps have been taken, and then requires the licensing authority to hold another hearing to consider those representations within 48 hours. The 2003 Act does not limit the number of times that a premises licence holder may make representations, with the result that the licensing authority must hold a hearing each time that relevant representations are received.
- 6.9 Section 53B is amended by Section 136 of the 2017 Act so that after the licensing authority has held a hearing to consider the interim steps, the premises licence holder may only make further representations if there has been a **material change in circumstances** since that hearing.

Summary reviews of premises licences: review of interim steps

- 6.10 Further to the above measure, Section 53A requires the review of the premises licence to take place within 28 days of receipt of the application. The review takes the form of a hearing at which the licensing authority will determine what action should be taken on a permanent basis.
- 6.11 The decision made at the review hearing does not take effect until the expiry of the time limit for appealing (21 days) during which the decision may be appealed by the licensee or the police to a magistrates’ court, or until an appeal is disposed of. There is currently an ambiguity in the 2003 Act about whether the interim steps remain in place after the review hearing, and whether they can be withdrawn or amended by the licensing authority. The amendments made by this clause will address the ambiguity about what happens to the interim steps between the review hearing and the review decision coming into effect.
- 6.12 Section 53 is amended by Section 137 of the 2017 Act, requiring the licensing authority, at the review hearing, to review any interim steps that have been taken. The licensing authority must consider whether the interim steps are appropriate for the promotion of the crime prevention objective, consider any relevant representations, and determine whether to withdraw or modify the steps taken. For example, there may have been a change in circumstances or further evidence provided at the hearing which means that the interim steps originally imposed are

no longer necessary for the period of time between the review hearing and the review decision coming into effect.

- 6.13 Finally Part 1 of Schedule 5 to the 2003 Act is amended to provide for an appeal to be made by the police or licensee, against the decision regarding the interim steps, taken at the review hearing. This appeal must be made to the magistrates court within 28 days of the date of the decision.

Personal licences: licensing authority powers in relation to convictions

- 6.14 Currently a personal licence may be suspended or forfeited by a court on conviction for a relevant offence (that is, one listed in Schedule 4 to the 2003 Act). Section 138 of the 2017 Act now provides licensing authorities with a similar discretionary power. When the licensing authority that has granted a personal licence becomes aware that the licence holder has been convicted of a relevant offence, foreign offence or has been required to pay an immigration penalty, the licensing authority **may** revoke the licence, or suspend it for a period of up to six months.
- 6.15 Notice must be given to the licence holder where licensing authority is considering to revoke or suspend the personal licence, who must be given the opportunity to make representations to a Licensing Sub-Committee, and will have the right of appeal to a magistrates court.
- 6.16 The new provisions of the 2017 Act state that a decision to revoke or suspend a personal licence cannot be made by officers and must be a made by a Licensing Committee. Therefore the Delegations need to be amended and approved to take account of the new function, as detailed in **Appendix A**.

A overview of the procedure when consideration is being given to revoke or suspend a personal licence is detailed in **Appendix B**.

Licensing Act 2003 – Addition of further Relevant Offences.

- 6.17 Conviction for a relevant offence can be grounds for refusing a new personal licence, or for suspending or revoking an existing licence. Currently, there are some serious offences which are not included in the definition of “relevant offence”. The following offences will be added to the definition by Section 139 of the 2017 Act:
- The sexual offences listed in Schedule 3 to the Sexual Offences Act 2003;
 - The violent offences listed in Part 1 of Schedule 15 to the Criminal Justice Act 2003;
 - The manufacture, importation and sale of realistic imitation firearms contrary to section 36 of the Violent Crime Reduction Act 2006;
 - Using someone to mind a weapon contrary to section 28 of the Violent Crime Reduction Act 2006;
 - The terrorism-related offences listed in section 41 of the Counter-terrorism Act 2008; and
 - Immigration offence or immigration penalties.

Licensing Act 2003: guidance

- 6.18 Section 182 of the 2003 Act provides that the Secretary of State must issue

guidance to licensing authorities on the discharge of their functions under the Act, and the guidance must be approved by Parliament before it can be issued. Section 140 of the 2017 Act removes the parliamentary procedure and the guidance will now take effect as soon as it is published by the Home Office.

Cumulative Impact Assessments Policies

- 6.19 Cumulative Impact Assessment Policies (CIPs) are not referred to in 2003 Act. They are discussed in Home Office guidance (March 2015) issued under section 182 of the Act where “cumulative impact” means “the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area”. Section 5 of the Act requires a licensing authority to prepare and publish a statement of its licensing policy at least every five years. This statement can, following consultation, include a CIA, the aim of which is to limit the growth of licensed premises where the promotion of the licensing objectives is being compromised.
- 6.20 Section 5 of the 2003 Act is amended by Section 141 of the 2017 Act, allowing a licensing authority to publish a cumulative impact assessment policy if it considers that the number of licensed premises in an area is such that granting further licences would be inconsistent with its duty to promote the licensing objectives. The licensing authority will have to publish the evidence for its opinion and consult the list of persons set out in the 2003 Act. A cumulative impact assessment would not prevent the grant or variation of a licence. A responsible authority or other person would need to make a representation to challenge an application. If no representations were made, the licensing authority would have to grant the licence or variation. Under the amendment the licensing authority must now review the evidence supporting a CIP at least every three years instead of the previous requirement of 5 years.

Late Night Levy

- 6.21 The Late Night Levy (LNL) was introduced under the Police Reform and Social Responsibility Act 2011 to enable licensing authorities to collect a financial contribution from businesses selling alcohol late at night and to put the funds raised towards policing and other costs associated with the management of the night time economy.
- 6.22 Currently the legislation requires that at least 70% of the net revenue from the levy (minus administration costs) must go to the Police and Crime Commissioner (PCC) who then determines how to direct the funds.
- 6.23 The legislation requires that if implemented, the LNL must apply to the entire licensing authority area (subject to exemptions). Licensing authorities have discretion to make exemptions for New Year’s Eve and for certain categories of premises such as bingo halls, community premises, country village pubs and businesses that already contribute financially as part of a Business Improvement District (BID).
- 6.24 The LNL has not been widely implemented and has been subject to criticism from police, licensing authorities and the licensed trade.
- 6.25 The police and licensed trade have indicated that the LNL in its current form is inflexible and licensing authorities feel that they are not able to target businesses that place demands on the police in the night time economy. This is reported to be

one of the major reasons why very few LNLs have been introduced. The licensed trade has also raised concerns around the lack of transparency in how LNL revenue is spent. The PCC working group on alcohol has stated that PCCs do not feel they have a strong enough role in consideration of a levy in their area.

- 6.26 Section 142 and Schedule 18 of the Policing and Crime Act 2017 seek to make the LNL more flexible, allowing authorities to introduce the LNL in for example specific parts of a town rather than having to introduce it for the whole of the local authority area as is the case currently.
- 6.27 There will be greater transparency, however, with licensing authorities being required to publish information on how the funds raised by the LNL are spent.
- 6.28 One of the key changes is that the LNL will be extended to also apply to premises that are permitted to offer late night refreshment, for example takeaways (the LNL currently only applies to premises selling alcohol). Premises only serving hot Non-alcoholic drinks are excluded.
- 6.29 PCCs will also be given a statutory right to request that consideration is given by a licensing authority to implementing a LNL in their area. Such a request must be then given consideration by the licensing authority and the response to the request must be published. This published response must include reasons, including an explanation of the outcome of the authority's considerations

7. Comments of Other Committees

'1' 23rd March 2016, Information Report to the Licensing Committee on the Immigration Bill 2015. Resolved- That the amendments to the Immigration Bill 2015 relating to new licensing powers and additional responsibilities be noted.

8. Conclusion

The Committee are therefore requested to note the details of the report and recommendations set out in Paragraph 2.

9. Appendices Attached

'A' - Delegation of Function of the Licensing Act 2003
'B' - Draft procedure for consideration of suspending or revoking a personal Licence

10. Background Papers

'1' - Licensing Act 2003
'2' - Policing and Crime Act 2017
'3' - Immigration Act 2016
'4' - Explanatory notes of The Policing and Crime Act 2017
'5' - Explanatory notes of the Immigration Act 2016
'6' - Home Office – 'Guidance for Licensing Authorities to prevent illegal working in licensed premises in England and Wales'

Appendix A

Licensing Act 2003 - Delegation of Functions (2017)

The delegations of functions in relation to licensing matters are as follows:-

Matters to be dealt with	Sub Committee	Officers
Application for personal licence	If a representation made	If no representation made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a representation made	If no representation made
Application for provisional statement	If a representation made	If no representation made
Application to vary premises licence/club premises certificate	If a representation made	If no representation made
Minor variations		All cases
Application to vary designated personal licence holder	If a Police representation	All other cases
Request to be removed as designated personal licence holder		All cases
Application for transfer of premises licence	If a Police representation	All other cases
Applications for Interim Authorities	If a Police representation	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc.		All cases
Decision on objection when Local Authority is a consultee and not the lead authority	All cases	
Determination of a 'Relevant Persons' representation to a temporary event notice (Standard notice only)	All cases	

Making a representation on behalf of the Licensing Authority		Licensing Manager Senior Licensing Officer
Initiating a Review on behalf of the Licensing Authority		Licensing Manager Senior Licensing Officer
Determination of a representation made on behalf of the Licensing Authority	All cases	
Determination of a Review made on behalf of the Licensing Authority	All cases	
Service notice on a Personal Licence holder in consideration to suspend or revoke the Personal Licence		Licensing Manager Senior Licensing Officer
Decision to suspend or revoke a Personal Licence where the holder has been convicted of a relevant offence, foreign offence or required to pay an immigration penalty.	All Cases	

APPENDIX B

(Procedure)

The following procedure must be followed where consideration is to be given to revoke a personal licence or suspend a personal licence (for period of up to six months), where the licence holder has been convicted of a relevant offence, foreign offence, immigration offence or been required to pay an immigration penalty.

1. Written notice must be given to the licence holder that the licensing authority is considering revoking or suspending the personal licence. The notice must detail fully the relevant offence, foreign offence, immigration offence or immigration penalty. *(This power has been delegated to the Licensing Manager and Senior Licensing Officers.)*
2. The notice must invite the licence holder to make representations regarding;
 - (a) The relevant offence, foreign offence or immigration penalty that has caused the licensing authority to issue the notice,
 - (b) Any decision of a court under section 129 or 130 in relation to the licence, (i.e. court powers to make a forfeiture order or suspend the licence for period up to six months).
 - (c) Any other relevant information (including information regarding the licence holder's personal circumstances).
3. Any relevant representations must be made to the licensing authority within a period of 28 days, beginning with the day the notice was issued.
4. Once relevant representations have been received, or if no relevant representations have been received, arrangements must be made for a Licensing Sub-Committee to be convened to consider the revocation or suspension of the personal licence and to hear any representations made by the licence holder.
5. Before deciding whether to suspend or revoke the licence, the licensing authority must take into account;
 - (a) Any representations made by the licence holder,
 - (b) Any decision of a court under section 129 or 130 of which the licensing authority is aware of, and
 - (c) Any other information which the licensing authority consider relevant.
6. Having taken into account the matters detailed in (5) above the licensing authority may make a decision whether to suspend or revoke the personal licence.
7. If a decision is made to revoke to the licence, the personal licence holder may appeal against the decision to the Magistrates court.

8. If a decision is made to suspend the licence, the licensing authority must:
 - (a) Give notice to the Chief Officer of Police that it proposes not to revoke the licence, and
 - (b) Invite the Police to make representations regarding the issue of whether the licence should be suspended or revoked having regard to the Crime Prevention objective.
9. The Chief Officer of Police may make representations to the licensing authority within the period of 14 days beginning with the day the notice was received.
10. If the Chief Officer of Police **does not** make representations then the licence holder must be served notice of the date of the suspension taking effect.
11. Where the licensing authority has given notice to the Chief Officer of Police and representations have been made, the authority must take then take into account;
 - (a) Any representations from the Police, and
 - (b) The matters described in section (5) above,
12. Having received representations from the Chief Officer of Police to the decision to suspend the licence, then the Licensing Sub-Committee hearing will have to be reconvened for the Police to attend to present those representations orally and for the licence holder to also attend to make comment.
13. The Licensing Sub-Committee must then make a decision whether to suspend or revoke the licence.
14. The licensing authority must give notice of any decision made to suspend or revoke the licence to the licence holder and the Chief Officer of Police, detailing fully the reasons for the decision.
15. The licence holder has the right of appeal against the decision of the licensing authority to revoke or suspend the personal licence. The appeal must be made to the Magistrates Court within a period of 21 days from the date of receipt of service of the notice.

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