

10 March 2014

Licensing and Public Safety Committee

You are invited to attend a meeting of the Licensing and Public Safety Committee to be held in Council Chamber, Town Hall, Chorley on Wednesday, 19th March 2014 commencing at 2.00 pm.

AGENDA

1. **Apologies for absence**

2. **Minutes (Pages 5 - 6)**

To confirm the minutes of the Licensing and Public Safety Committee meeting held on 6 March 2013 as a correct record for signing by the Chair (enclosed)

3. **Declarations of Any Interests**

Members are reminded of their responsibility to declare any pecuniary interest in respect of matters contained in this agenda.

If you have a pecuniary interest you must withdraw from the meeting. Normally you should leave the room before the business starts to be discussed. You do, however, have the same right to speak as a member of the public and may remain in the room to enable you to exercise that right and then leave immediately. In either case you must not seek to improperly influence a decision on the matter.

4. **Approval of the minutes of the General Licensing Sub Committee meetings**

a) Minutes of the General Licensing Sub-Committee held on 6 March 2013 (Pages 7 - 8)

b) Minutes of the General Licensing Sub Committee held on 18 March 2013 (Pages 9 - 10)

c) Minutes of the General Licensing Sub Committee held on 17 July 2013 (Pages 11 - 12)

- d) Minutes of the General Licensing Sub Committee held on 14 August 2013 (Pages 13 - 14)
 - e) Minutes of the General Licensing Sub Committee held on 6 November 2013 (Pages 15 - 18)
 - f) Minutes of the General Licensing Sub-Committee held on 4 December 2013 (Pages 19 - 22)
 - g) Minutes of the General Licensing Sub-Committee held on 8 January 2014 (Pages 23 - 24)
 - h) Minutes of the General Licensing Sub-Committee held on 5 March 2014 (Pages 25 - 26)
5. **Approval of the minutes of the Licensing Act 2003 Sub Committee meetings**
- a) Minutes of the Licensing Act 2003 Sub Committee held on 7 August 2013 (Pages 27 - 30)
 - b) Minutes of the Licensing Act 2003 Sub Committee held on 14 November 2013 (Pages 31 - 32)
 - c) Minutes of the Licensing Act 2003 Sub-Committee held on 5 March 2014 (Pages 33 - 36)
6. **Taxi Licence Fees and Charges - Review of cost apportionment** (Pages 37 - 44)
- Report of the Director of People and Places (enclosed)
7. **Amendment to the scheme of delegation** (Pages 45 - 52)
- Report of the Director of People and Places (enclosed)
8. **Review of vehicle inspection processes** (Pages 53 - 84)
- Report of the Director of People and Places (enclosed)
9. **Below Cost Sales of Alcohol - Enforcement approach** (Pages 85 - 110)
- Report of the Director of People and Places (enclosed)
10. **Any other item(s) that the Chair decides is/are urgent**

Yours sincerely



Gary Hall
Chief Executive

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Distribution

1. Agenda and reports to all Members of the Licensing and Public Safety Committee (Marion Lowe (Chair), Anthony Gee (Vice-Chair) and Jean Cronshaw, Matthew Crow, David Dickinson, Doreen Dickinson, Danny Gee, Keith Iddon, Hasina Khan, Adrian Lowe, Mick Muncaster, Steve Murfitt, Pauline Phipps, Alan Platt, Geoffrey Russell, Ralph Snape and John Walker for attendance.
2. Agenda and reports to Alex Jackson (Senior Lawyer), Jodi Fitzpatrick (Solicitor), Lesley Miller (Regulatory Manager), Paul Carter (Regulatory Services Officer), Stephen Culleton (Licensing Officer), Dianne Scambler, Simon Clark (Head of Environment), Legal Services and Jamie Carson (Director of People and Places) for attendance.
3. Agenda and reports to Licensing and Public Safety Committee reserves (Councillors Graham Dunn and Steve Holgate for information.

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Licensing and Public Safety Committee

Wednesday, 6 March 2013

Present: Councillor Marion Lowe (Chair), Councillor Anthony Gee (Vice-Chair) and Councillors Jean Cronshaw, David Dickinson, Doreen Dickinson, Keith Iddon, Hasina Khan, Paul Leadbetter, Adrian Lowe, Mick Muncaster, Steve Murfitt, Pauline Phipps, Alan Platt, Ralph Snape and John Walker

Also in attendance

Substitutes: Councillors Julia Berry and Danny Gee

Officer: Zeynab Patel (Solicitor), Matthew Swift (Public Protection Officer), Paul Carter (Public Protection Co-ordinator) and Dianne Scambler

13.LPS.61 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Matthew Crow and Graham Dunn.

13.LPS.62 MINUTES

RESOLVED – That the minutes of the Licensing and Public Safety Committee held on 12 December 2012 be confirmed as a correct record for signing by the Chair.

13.LPS.63 DECLARATIONS OF ANY INTERESTS

There were no declarations of any interests.

13.LPS.64 LICENSING ACT 2003 SUB-COMMITTEE MINUTES

RESOLVED – That the minutes of the Licensing Act 2003 Sub Committee held on 14 January 2013 be held as a correct record.

13.LPS.65 GENERAL LICENSING SUB-COMMITTEE MINUTES

RESOLVED – That the minutes of the General Licensing Sub Committee held on 6 February 2013 be held as a correct record.

13.LPS.66 DVLA V5 DOCUMENT REQUIREMENT

The Committee received a report of the Director of People and Places to highlight concerns that had been raised by the taxi trade relating to a long standing condition on Hackney Carriage and Private Hire vehicle licences which require the DVLA V5 vehicle registration process for a hackney carriage or private hire vehicle licence. The condition relates to the documentation that is required to be produced to the Council in order to progress a licence application.

When a vehicle is purchased and in particular second hand vehicles, the V5 'log book' is sent away by the vehicle vendor to the DVLA and the new owner of the vehicle receives a handwritten slip containing their name and address which links them by a serial number to the old V5 registration document in the possession of the vendor or in transit to the DVLA. This slip is effectively a receipt for the full V5 document should a

new version not be forthcoming from the DVLA. It was the opinion of officers that the slip is not a replacement for the full V5 'log book' and they were looking to amend the present condition to this effect.

The DVLA service standards indicate that over 97% of V5 documents are issued within 14 days of receipt from the vehicle vendor which can amount to a possible 2 to 3 week delay in the new owner receiving the 'log book'. Therefore whilst the Council can process any application for a hackney carriage or private hire vehicle licence, the licence cannot be issued until the V5 document has been presented and is in order.

Representation from the taxi trade highlighted instances whereby it had taken around 5 to 6 weeks for the 'log book' to be issued and that a driver could only contact the DVLA regarding progress after a two week period. This could potentially mean a considerable loss of earnings for a driver.

After careful consideration of the option available it was proposed by Councillor Marion Lowe, seconded by Councillor Jean Cronshaw and subsequently **RESOLVED that a licence will be issued upon the production of the relevant documentation and that the applicant will provide the relevant V5 document within six weeks, from the date of the application and that all associated administrative costs be passed on to the driver through the relevant fees.**

Chair

General Licensing Sub-Committee

Wednesday, 6 March 2013

Present: Councillor Marion Lowe (Chair) and Councillors Matthew Crow, Keith Iddon, Adrian Lowe and Ralph Snape

Also in attendance

Officer: Zeynab Patel (Solicitor), Stephen Culleton (Public Protection Officer) and Dianne Scambler (Democratic and Member Services Officer)

13.LSC.6 APOLOGIES FOR ABSENCE

There were no apologies for absence.

13.LSC.7 DECLARATIONS OF ANY INTERESTS

No declarations of any interest were declared.

13.LSC.8 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED – That the press and public be excluded from the meeting for the following items of business on the ground that they involve the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of schedule 12A of the Local Government Act 1972.

13.LSC.9 SECTION 61 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Sub Committee received a report of the Director of People and Places to consider whether a driver was a fit and proper person to continue to hold a Chorley Borough Council Private Hire Drivers Licence under Section 61 (1) (b) of the Local Government (Miscellaneous Provisions) Act 1976 following a complaint dated 21 January 2013 that had been received by the Council.

The Sub Committee heard representations from the Council's Public Protection Officer, the driver and his representative who was the operator for the taxi firm that the driver worked for, relating to the information provided in both the letter of complaint and the officers report.

In order to make a fair decision and to ascertain all the facts from the complainants, the Sub Committee felt it appropriate to hear from both the complainants and the driver on this matter, so adjourned the meeting and deferred the decision until this could be achieved.

RESOLVED – That the meeting be adjourned.

Chair

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General Licensing Sub-Committee

Monday, 18 March 2013

Present: Councillor Marion Lowe (Chair) and Councillors Matthew Crow, Keith Iddon, Adrian Lowe and Ralph Snape

Also in attendance

Officer: Zeynab Patel (Solicitor), Stephen Culleton (Public Protection Officer) and Dianne Scambler

13.LSC.10 APOLOGIES FOR ABSENCE

There were no apologies for absence.

13.LSC.11 DECLARATIONS OF ANY INTERESTS

No declarations of any interest were declared.

13.LSC.12 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED – That the press and public be excluded from the meeting for the following items of business on the ground that they involve the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of schedule 12A of the Local Government Act 1972.

13.LSC.13 SECTION 61 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Sub Committee considered a report of the Director of People and Places in the presence of a driver and his representatives and the complainants and their representative's, to consider whether the driver was a fit and proper person to continue to hold a Chorley Borough Council Private Hire Drivers Licence following a complaint dated 21 January 2013 received by the Council.

The Sub Committee maintained that it was right and proper to defer the decision from the first hearing on 6 March 2013 as Members required full and clear facts from both parties to permit the Sub Committee to reach a reasonable and fair decision.

Members carefully considered all the facts brought to their attention both verbally and written and determined that it was obvious that there had been a confrontation between the driver and the complainants and there had been an altercation on both parts.

The Sub Committee recognised that it is not always the fault of the taxi driver and they appreciate it can be difficult for taxi drivers late at night. However it is for the operator's and the drivers to deliver good and proper customer care and service in the best interests of the public.

The Sub Committee acknowledged the driver had previous taxi driving experience of 26 years and numerous good character references which were submitted in support of the driver's suitability of being a fit and proper person.

Taking into account all the information provided to the Sub Committee the Members were of the view that the driver was not a risk to the general public and **RESOLVED that no further action should be taken against his licence.**

Chair

General Licensing Sub-Committee

Wednesday, 17 July 2013

Present: Councillor Marion Lowe (Chair) and Councillors David Dickinson, Danny Gee, Adrian Lowe and Alan Platt

Also in attendance

Officer: Alex Jackson (Senior Lawyer), Stephen Culleton (Public Protection Officer) and Dianne Scambler (Democratic and Member Services Officer)

13.LSC.14 APOLOGIES FOR ABSENCE

No apologies for absence were received.

13.LSC.15 DECLARATIONS OF ANY INTERESTS

There were no declarations on any interest.

13.LSC.16 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED – That the press and public be excluded from the meeting for the following items of business on the ground that they involve the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of schedule 12A of the Local Government Act 1972.

13.LSC.17 TO DETERMINE PRIVATE HIRE DRIVER AND VEHICLES LICENCES SUBJECT TO SUSPENSION NOTICES ISSUED UNDER SECTION 61(2) (B) & SECTION 60 (1) (C) OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Sub Committee considered a report of the Director of People and Places in the presence of the driver's representative, to consider whether the driver should have his licences revoked.

The driver had previously had his private hire driver licence suspended by a General Licensing Sub Committee on 7 November 2012, as he was the subject of an enquiry relating to a sexual assault in a taxi licensed by the Council, where bail conditions had been imposed upon him.

The Sub Committee was informed that the driver had pleaded guilty to the charges made against him and had been sentenced accordingly on 4 June 2013. The driver had received a 12 month community supervision order, 80 hours community service and had been placed on the Sex Offenders' Register for 5 years.

Members heard representation from the Council's Public Protection Officer and received information regarding the Council's policy regarding convictions. The driver had been invited but was unable to attend the meeting as he was undertaking community service. His representative attended and stated that the driver wanted to hand in his drivers badge as he did not feel that he would be able to get his licence reinstated.

Having considered all the information at the meeting Members **RESOLVED to revoke the drivers private hire driver licence with immediate effect on grounds of public**

safety under s.61(2)[B] of the Local Government (Miscellaneous Provisions) Act 1976 and to revoke the drivers private hire vehicle licence under s.60(1)(c) of the 1976 Act on the grounds below. Members further resolved to remove delegated authority from officers to grant any future applications in relation to taxi driver or vehicle licences from the driver.

- (i) The driver had been convicted of a sexual assault on a passenger in a taxi
- (ii) Members noted that at paragraph D.1 of the Council's policy on previous convictions persons with convictions for indecent assault would normally be refused a licence
- (iii) The driver had been required to sign the Sex Offenders' Register for 5 years. Members noted that the Council's policy on previous convictions does not envisage persons to be allowed to drive taxis whilst on the Sex Offenders' Register.
- (iv) Members considered that in the interests of public safety the driver should not be permitted to hold any form of taxi permission from the Council

Chair

General Licensing Sub-Committee

Wednesday, 14 August 2013

Present: Councillor Marion Lowe (Chair) and Councillors Matthew Crow, Mick Muncaster, Pauline Phipps and Alan Platt

Also in attendance

Officer: Alex Jackson (Senior Lawyer), Stephen Culleton (Public Protection Officer), Elizabeth Walsh (Legal Officer) and Dianne Scambler (Democratic and Member Services Officer)

13.LSC.18 APOLOGIES FOR ABSENCE

There were no apologies for absence.

13.LSC.19 DECLARATIONS OF ANY INTERESTS

No declarations of any interests were received.

13.LSC.20 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED – That the press and public be excluded from the meeting for the following items of business on the ground that they involve the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of schedule 12A of the Local Government Act 1972.

13.LSC.21 REVIEW OF PRIVATE HIRE/HACKNEY CARRIAGE DRIVER LICENCE AND PRIVATE HIRE VEHICLE LICENCE UNDER SECTION 60(1) (C) AND 61(1) (B) OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Sub Committee considered a report of the Director of People and Places to consider whether a driver was a fit and proper person to hold a Private Hire/Hackney Carriage Drivers Licence and Private Hire Vehicle Licence.

On 10 July the driver had been stopped by Lancashire Constabulary whilst in control of a Chorley Borough Council Private Hire Vehicle whilst on route to a pre booking and acting as a Private Hire Vehicle. He was found to be without motor vehicle insurance as required under section 143 of the Road Traffic Act 1988 and condition 38 of Chorley Borough Council's Private Hire Vehicle Licensing conditions.

At the same time the vehicle was issued a PG9 statement for an illegal tyre where the tyre tread depth measured less than 1.6mm across the central $\frac{3}{4}$ of tread which is contrary to condition 18 of Chorley Borough Council's Private Hire Vehicle Licensing conditions. Officers of the Council issued a suspension notice.

The Sub Committee noted that the driver had appeared before the General Licensing Sub Committee on 1 April 2009 to have his original application determined as the application process had revealed that the driver's licence had a number of penalty points and that he had been banned from driving for a period of time. Members at that time had determined to grant the driver a Private Hire Driver's Licence with a warning that should he receive further speeding endorsements, he would be required to appear before the Committee.

On 17 July the Council wrote to the driver with regards to providing details of insurance relating to his vehicle for the period 7 – 10 July 2013, where the vehicle had acted as a Private Hire Vehicle within the Borough of Chorley and other areas.

On 23 July the driver attended an informal interview with officers of the Council and was asked to produce a valid insurance certificate under section 50 (4) of the Local Government (Miscellaneous Provisions) Act 1976 to demonstrate that he was insured for the 62 journeys undertaken by him in the Private Hire Vehicle between 7-10 July respectively.

The driver stated that his vehicle was not insured and that he was the driver at the time. Officers were informed that the driver would be reported to the Courts for the offence of using a motor vehicle without insurance by Lancashire Constabulary.

Having considered all the information at the meeting the Sub Committee RESOLVED to revoke the driver's private hire/hackney carriage driver licences under s.61(1)(b) of the Local Government Miscellaneous Provisions Act 1976 and also to revoke the driver's private hire vehicle licence under s.60(1)(c) of the 1976 Act for the following reasons:

- 1) **The driver had admitted driving passengers on 62 occasions in a private hire vehicle which was not licensed as required under the law and was also contrary to the Council's private hire driver licence conditions. Members considered that this posed a serious risk to passengers.**
- 2) **The driver had driven a taxi with an illegal rear tyre which was also contrary to the Council's vehicle licence conditions.**
- 3) **Members noted that the driver had already written to the Council saying that he did not wish to continue as a taxi driver and had handed back his driver badge and vehicle plate.**

Chair

General Licensing Sub-Committee

Wednesday, 6 November 2013

Present: Councillor Marion Lowe (Chair) and Councillors Keith Iddon, Hasina Khan, Alan Platt and Ralph Snape

Also in attendance

Officer: Alex Jackson (Senior Lawyer), Paul Carter (Public Protection Co-ordinator), Colin Wordsworth (Public Protection Officer) and Dianne Scambler (Democratic and Member Services Officer)

13.LSC.22 APOLOGIES FOR ABSENCE

There were no apologies for absence.

13.LSC.23 DECLARATIONS OF ANY INTERESTS

No declarations of any interests were received.

13.LSC.24 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED – That the press and public be excluded from the meeting for the following items of business on the ground that they involve the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of schedule 12A of the Local Government Act 1972.

13.LSC.25 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976. FITNESS OF DRIVER TO HOLD A PRIVATE HIRE DRIVER'S LICENCE.

The Sub Committee considered a report of the Director of People and Places to determine whether a driver was a fit and proper person to hold a private hire driver's licence under the Local Government (Miscellaneous Provisions) Act 1976.

The driver currently held a private hire driver's licence PHD106 that had been issued by Chorley Council on 23 November 2010 and was set to expire on 6 December 2013.

The driver had reported a transient ischaemic attack (TIA) that had happened in March 2013, to the licensing department as per the conditions of his private hire driver's licence. The details of the TIA had been forwarded to the Council's medical consultant for further consideration.

As recommended by the Department of Transport (DFT) – "Taxi and Private Hire Vehicle Licensing – Best Practice Guidance" (March 2010) and approved by Members at a Licensing and Public Safety Committee in September 2010, all drivers in Chorley are required to be assessed against the Group II medical standards. Members noted that these were the same standards as applied by the DVLA to the licensing of lorry and bus drivers.

The DVLA Group II medical standards were also clear regarding the action to be taken following a TIA and Members were informed of the required guidance. Members noted that the response from the Council's medical examiner echoed the guidance that the driver should have his licence revoked for one year. However, it was explained that there was no provision to revoke a licence for a specified period.

The driver and his wife attended the meeting to give his representations to the Sub Committee.

The driver explained that although he still held his private hire driver's licence and badge, he had, as he had promised officers of the Council, not driven since the TIA. The driver stated that at the time of reporting his TIA to the Council he had tried to surrender his driver's badge, but officers had told him to retain it. This had meant that he had effectively paid 8 months for a licence that he had not been able to use. The driver asked if he could be reimbursed for this period if his licence was revoked by the Sub Committee.

The driver also raised his concerns that if he were to have his licence revoked now; it would cost him nearly three times as much to apply for a new licence in April 2014, which would be 12 months after the TIA. The driver asked the Members to consider granting the renewal of his licence in December with a view to immediately suspending the licence until he was able to prove that he was fit to hold his licence again.

Members noted that the driver had been honest about his condition and had reported the TIA to the Council as was required to do so. He had also kept to his word and although he was still in possession of both his licence and his driver's badge he had not driven since.

The Members also considered the drivers request that if his private hire driver's licence was revoked, the Council should reimburse him for the eight months that he had been unable to use his licence. However members accepted the comments of the Public Protection Officer that a reimbursement was not consistent with the driver continuing to hold a suspended licence and possibly resuming his work as a taxi driver at some point in 2014.

The Sub Committee carefully considered all the representations they had received from the Public Protection Officer and the driver and **RESOLVED under Section 61 (1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 to:**

- (1) **suspend the drivers Private Hire Drivers Licence.**
- (2) **give delegated authority to officers to renew the drivers Private Hire Drivers licence in December 2013 based on the suspension continuing.**
- (3) **give delegated authority to officers to revoke the drivers Private Hire Driver's licence if by 1 June 2014 the driver cannot demonstrate to the Council's satisfaction that he meets Group II Medical Standards or to remove his suspension if the driver proves he meets Group II Medical Standards before that date.**
- (4) **authorise officers to request the driver to hand back his Private Hire Drivers badge for the duration of the suspension.**

The Reasons for the decision were:

- (1) The Council's adopted policy is to apply Group II Medical Standards to taxi drivers in accordance with DFT Guidance. Such standards call for a licence to be revoked for 12 months following a TIA. Members considered that they could achieve the aim of the policy i.e. that the driver should not carry the public by suspending for a minimum of 12 months after the TIA rather than revoking the drivers licence.
- (2) The Council's medical consultant Dr Parker had made a recommendation in accordance with DFT Guidance namely that the licence should be revoked for 12 months following the TIA which members thought carried significant weight. Again members considered that they could achieve the policy aim of

protecting the public by suspending for a minimum of 12 months after the TIA rather than revoking the driver's private hire driver licence.

- (3) If the driver handed back his driver's badge the Council would have additional assurance that the driver could not drive a taxi for the duration of the suspension.

Chair

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General Licensing Sub-Committee

Wednesday, 4 December 2013

Present: Councillor Marion Lowe (Chair) and Councillors Jean Cronshaw, Doreen Dickinson, Danny Gee and Mick Muncaster

Also in attendance

Officer: Zeynab Patel (Solicitor), Stephen Culleton (Public Protection Officer) and Dianne Scambler

13.LSC.26 APOLOGIES FOR ABSENCE

There were no apologies for absence.

13.LSC.27 DECLARATIONS OF ANY INTERESTS

There were no declarations of any interests.

13.LSC.28 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED – That the press and public be excluded from the meeting for the following items of business on the ground that they involve the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of schedule 12A of the Local Government Act 1972.

13.LSC.29 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Sub Committee considered a report of the Director of People and Places to determine whether a driver was a fit and proper person to hold both a Private Hire and Hackney Carriage Drivers licences.

The Council's Public Protection Officer outlined the report and informed the Sub Committee that officers had received an application from the driver on 30 September 2013. At the time the application was made officers advised the driver that it was likely that his application would be referred to the General Licensing Sub Committee for determination as his previous Private Hire and Hackney Carriage Drivers Licences had been previously revoked.

The driver first applied to Chorley Borough Council for a Private Hire Drivers Licence in 2003. The drivers' licence history from that time had caused the Council a disproportionate amount of enforcement action in comparison to other holders of comparable licences.

At a special meeting of the full Licensing Committee held in 2010, Members determined to revoke the driver's Private Hire and Hackney Carriage Drivers licences and the Sub Committee's attention was drawn to the details of that report, containing the drivers licensing history to that point.

The driver had provided a DSA Hackney Carriage/Private Hire Test Assessment Pass Certificate, a Completed Date Protection Mandate and a copy of his DVLA Drivers Licence that showed two convictions, of which only one was relevant to be considered under the Councils Statement of Licensing Policy. The driver had successfully

completed the Council's Medical and Knowledge test and the appropriate fee had been received.

Officers were aware that the driver holds Hackney Carriage Vehicles licensed at other authorities and also a Private Hire Vehicle licensed with Chorley Borough Council on a joint proprietorship with a Chorley licenced operator and the Sub Committee received details in respect of relevant licensing issues that had been dealt with by these authorities.

The driver made representations to the Sub Committee and gave explanations for the issues detailed within the report. The driver stated that his vehicle is always clean and tidy, was correctly insured and that he was a honest person. The driver also stated that he was well known in the area of Chorley; people knew him by name and asked to use his transport. The driver admitted that there had been problems in the past; he had been responsible for the management and maintenance of 17 vehicles, along with an operating base. It had not been an easy job to do and had become too much for him. The driver said that he was sorry for the past and that he had learnt from his mistakes and would do better in the future.

Councillor Daniel Gee left the meeting at 3.15pm.

Having considered all the relevant information that had been heard at the meeting, the Sub Committee **RESOLVED to grant the driver with a Private Hire Driver's Licence and a Hackney Carriage Driver's licence for the following reasons:**

- 1. Since the appeal decision in 2010, the driver had demonstrated, he had taken steps to resolve issues with other licensing authorities and had co-operated with officers to present valid insurance documents and paid outstanding financial payments.**
- 2. The driver's recent driving record shows he holds licences with three licensing authorities, two of which are driver's licences and he had been operating another authorities licensed Hackney Carriage Vehicle within the Borough of Chorley for approximately two years without any problems specifically related to Chorley.**
- 3. The driver holds a Private Hire Vehicle with the Council on a joint proprietorship with a Chorley Operator and there are no issues with this Licence.**
- 4. The driver declared all his convictions on his application and therefore, he was being honest with the licensing authority. The driver also declared all the licences he holds with other authorities outside of Chorley.**
- 5. That little weight is given to the speeding offence in 2012 in light of Council policy which states that for isolated convictions for minor traffic offences, such as speeding, should not normally prevent a person from being granted a licence. Records show that the driver presently has three current penalty points within the last two years and therefore the Sub Committee determine that this does not question his suitability as a driver. The Council's policy states that the applicant should have received more than six points to determine the driver is unsuitable.**
- 6. As more than 3 years had lapsed since the CU30 offence and the historic warnings and other sanctions. Members were satisfied that a period of rehabilitation had been demonstrated by the driver.**
- 7. The granting of these licences should not have a bearing on the state and condition of the vehicles as the licences will predominantly govern any driving undertaken by the driver. However, as the driver, he will be expected to make sure that the vehicle he will be driving is safe and roadworthy and that the vehicle licence conditions are complied with.**

The Chair also wanted the following to be included in the decision notice:

You are allowed to drive taxi vehicles because it is the Sub Committee's view that you have demonstrated you are a fit and proper person now and will not drive vehicles with defects which cause a risk to public safety. You will have licence conditions to

comply with and you will be expected to follow these conditions properly. We recognise that there have been concerns with your licences with this authority in the past, however we have taken into account that you were managing 17 vehicles and acting as an operator back then and now you only have one vehicle licence. Going forwards, you have told us that you are an honest man and therefore we are putting our trust in you to drive safe vehicle for the benefit of the public.

Chair

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General Licensing Sub-Committee

Wednesday, 8 January 2014

Present: Councillor Marion Lowe (Chair) and Councillors Doreen Dickinson, Steve Murfitt, Alan Platt and Ralph Snape

Also in attendance

Officer: Alex Jackson (Senior Lawyer), Stephen Culleton (Public Protection Officer) and Ruth Rimmington (Democratic and Member Services Officer)

14.LSC.1 APOLOGIES FOR ABSENCE

There were no apologies for absence.

14.LSC.2 DECLARATIONS OF ANY INTERESTS

No declarations of any interests were received.

14.LSC.3 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED –That the press and public be excluded from the meeting for the following items of business on the ground that they involve the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of schedule 12A of the Local Government Act 1972.

14.LSC.4 SECTION 61 (2B) OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Sub Committee considered the report of the Director of People and Places to consider whether a licensed private hire driver was a fit and proper person to hold a private hire driver licence.

The driver currently held a private hire driver's licence that had first been issued by Chorley Council on 19 November 2010 and was set to expire on 18 November 2014.

Officers were made aware that the driver had been admitted to hospital following being found at home suffering from a stroke. The driver was contacted by officers on his discharge from hospital where he confirmed his medical condition. The details of which had been forwarded to the Council's medical consultant for further consideration. The driver has remained helpful in all matters relating to this incident.

As recommended by the Department of Transport – "Taxi and Private Hire Vehicle Licensing – Best Practice Guidance" (March 2010) and approved by Members at a Licensing and Public Safety Committee in September 2010, all drivers in Chorley are required to be assessed against the Group II medical standards. Members noted that these were the same standards as applied by the DVLA to the licensing of lorry and bus drivers.

The DVLA Group II medical standards were also clear regarding the action to be taken following a Transient Ischaemic Attack (TIA) and Members were informed of the guidance. Members noted that the response from the Council's medical examiner had recommended that the driver should not drive taxis for at least 12 months. It was explained that there was no provision to revoke a licence for a specified period.

The driver did not attend the meeting and had advised the Public Protection Officer of this by telephone. He had further advised the Officer that he was in the process of selling his Private Hire Vehicle and had previously handed his PHV driver's badge to officers. The driver informed the officer that he had suffered a further episode since the publication of the agenda papers.

Members noted the difference between a revocation and a suspension of a licence.

The Sub Committee carefully considered all the representations they had received from the Public Protection Officer and **RESOLVED to revoke the driver's Private Hire Driver Licence with immediate effect under Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976, with an invitation for the driver to reapply for a PHV Driver's licence in the future, e.g. (a period of not less than 12 months and extending to not more than 36 months from revocation) where he can make an application without the requirement to undertake the DSA and the Council's Knowledge test.**

The Sub-Committee acknowledged the drivers' co-operation in this matter.

The reasons for the decision were:

- (1) The Council's adopted policy is to apply Group II Medical Standards to taxi drivers in accordance with DFT Guidance. Such standards call for a licence to be revoked for 12 months following a TIA.
- (2) The Council's medical consultant had made a recommendation in accordance with DFT Guidance namely that the driver should not drive a taxi for at least 12 months from 25 November 2013 which members thought carried significant weight.
- (3) The driver had reported a further episode which only increased the uncertainty over his future medical fitness to drive a taxi.

Chair

General Licensing Sub-Committee

Wednesday, 5 March 2014

Present: Councillor Marion Lowe (Chair) and Councillors Danny Gee, Adrian Lowe and Mick Muncaster

Also in attendance

Officer: Alex Jackson (Senior Lawyer), Jodi Fitzpatrick, (Solicitor) Stephen Culleton (Licensing Officer) and Dianne Scambler (Democratic and Member Services Officer)

14.LSC.5 APOLOGIES FOR ABSENCE

Any apology for absence was received from Councillor Keith Iddon.

14.LSC.6 DECLARATIONS OF ANY INTERESTS

No declarations of interests were received.

14.LSC.7 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED –That the press and public be excluded from the meeting for the following items of business on the ground that they involve the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of schedule 12A of the Local Government Act 1972.

14.LSC.8 SECTION 61 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976.

The Sub Committee was informed that on 21 November 2013, the driver had been found guilty at Chorley Magistrates for the offence of failing to wear his PHD Badge in a manner as to be plainly and distinctly visible. The driver was conditionally charged for six months and ordered to pay £70.00 towards the Council's costs and a £15.00 victim surcharge.

The driver had been stopped by Lancashire Police on 10 July 2013 on a day of action for failing to wear a seat belt; this was contrary to the Road Traffic Act 1998 for which he received a fixed penalty. The issue of not wearing a seat belt was also contrary to the conditions attached to his PHD licence, which explicitly states that a driver must wear his seat belt. Further questioning by licensing officers revealed that the driver did not have upon his person his PHD badge which he was required to wear whilst driving a private hire vehicle under Section 54 of the Local Government (Miscellaneous Provisions) Act 1976.

Members' attention was drawn to a number of previous issues that officers had dealt with in relation to the driver's driving licences and the reports and decision of a General Licensing Sub Committee that had sat on 10 February 2010. Members heard representations from the Council's Licensing Officer and received information regarding the Council's policy regarding convictions. The driver currently holds a PHD Licence which will expire on 19 February 2016, the driver had surrendered his HCD licence on 13 February 2014. In light of all the information contained within the report and the convictions that had been recorded against him, Members were asked to consider if the driver was a fit and proper person.

The driver attended the meeting along with his representative, to give representations about the information contained within the report. The driver acknowledged that he had been caught not wearing his seat belt or having his driver's badge on him at the time and although he gave his reasons for why that had happened, he accepted full responsibility for his actions and apologised. Although there were no passengers in the vehicle at the time when he was stopped, he understood that this was no excuse for what he had done.

Having considered all the information at the meeting the Sub Committee **RESOLVED not to suspend or revoke his private hire driver licence but to authorise the licensing officer to issue a warning letter to the driver to his future conduct to lie on the licensing file, for the following reasons:**

- **The driver had accepted full responsibility for not wearing his badge and his seat belt,**
- **The driver had apologised and said that it would not happen again; and**
- **There was no risk posed to passengers or the public.**

Chair

Licensing Act 2003 Sub-Committee**Wednesday, 7 August 2013**

Present: Councillor Marion Lowe (Chair) and Councillors Pauline Phipps and Alan Platt

Also in attendance

Officers: Zeynab Patel (Solicitor), Matthew Swift (Public Protection Officer) and Dianne Scambler (Democratic and Member Services Officer)

13.LAS.26 APOLOGIES FOR ABSENCE

There were no apologies.

13.LAS.27 DECLARATIONS OF ANY INTERESTS

No declarations of any interests were received.

13.LAS.28 APPLICATION FOR A PREMISES LICENCE UNDER SECTION 17 OF THE LICENSING ACT 2003 - RED LION, 196 BLACKBURN ROAD, WHEELTON, CHORLEY, PR6 8EU

The Licensing Sub Committee considered the application for the granting of a premises licence made by Mr Philip Entwistle of Special Ale Services Limited, Norwood Copthurst Lane, Whittle-le-Woods. Chorley in respect of Red Lion, 196 Blackburn Road, Wheelton, Chorley in light of representations made towards the application under Section 17 of the Licensing Act 2003.

The Council had received an application on 25 June 2013 made under section 17 of the Licensing Act 2003 for the granting of a premises licence and officers were satisfied that the application had been made in the correct manner. Officers had received 25 relevant representations objecting to the application that were accepted and were to be considered under the licensing objectives for the prevention of crime and disorder and the prevention of public nuisance. Two representations in support of the application were also received.

An interested person had promoted a view of the application for the premises licence at the Red Lion that had been delivered to many addresses throughout Wheelton. A copy of the leaflet was contained within the report and Members were advised that not all of the issues raised within the information were licensing considerations.

The premises had benefited from a premises licence that had been granted under the Licensing Act 2003 from 24 November 2005, following an application for the conversion and variation from a Justices Licence empowered under the Licensing Act 1964, the Councils records show that those permissions existed from 1993. On or around 4 January 2013 the Council received a notice under Section 28 of the Licensing Act 2003 to surrender the premises licence in force at that time following a contractual agreement between Enterprise Inns and Special Ale services Ltd.

On 18 June 2013, following an application made by Special Ale Services Ltd for the transfer of the premises licence and change of the Designated Premises Supervisor, the applicant was informed that the licence could not be transferred as it no longer existed.

Members were also informed that Live music is not now regarded as a licensable activity on any premises between the hours of 8am and 11pm.

The Licensing Sub Committee has carefully considered the applicant's written and verbal representations for the application for the granting of a premises licence and have also taken into account all the representations both written and verbal that had been made by local residents who were objecting to the proposals.

Members noted that no responsible authorities had made representations about the application. Members considered that the concerns expressed about highway safety are not grounds for refusing the application or for imposing further conditions.

Members also considered that the conditions proposed by the applicant subject to the amendments below are sufficient to meeting the licensing objectives.

The Sub Committee have considered the amended guidance issued under Section 182 of the Licensing Act, together with the Council's Statement of Licensing Policy, in particular those paragraphs referred to within the report. The Sub Committee also considered Human Rights implications, in particular Article 6, Article 8 and Article 1 of the First Protocol of the Proportionality Principle and the changes to the Act that have been made by the Police Reform and Social Responsibility Act 2011.

The Sub Committee **RESOLVED to grant the application as set out in the report subject to:**

Regulated Entertainment

Live music (indoors)

Monday to Sunday 09.00 – 23.00

Recorded music (indoors)

Monday to Sunday 09.00 – 23.00

Anything of a similar description to that falling within Live music, Recorded music or Performances of dance (indoors)

Monday to Sunday 09.00 – 23.00 (indoors)

Late night refreshment

Sunday/Monday/Tuesday until 23.00

Wednesday/Thursday until 23.30

Friday/Saturday until 00.30

Supply of Alcohol

Sunday/Monday/Tuesday from 9.00 - 23.00 plus 30 minutes drink up time

Wednesday/Thursday from 9.00 - 23.30 plus 30 minutes drink up time

Friday/Saturday from 9.00 - 00.30 plus 30 minutes drink up time

Hours of the premises are open to the public

Sunday/Monday/Tuesday from 9.00 - 23.30

Wednesday/Thursday from 9.00 - 00.00

Friday/Saturday from 9.00 – 1.00

The Beer Garden to close at 23.00 Monday to Sunday

Conditions

General: as per the operating schedule on page 36

The Prevention of Crime and Disorder: as per the operating schedule on page 36 and a new condition as follows - Licensee to explore implementation of the Pub Watch Scheme.

Public Safety: as per operating schedule on page 36

The Prevention of Public Nuisance: as per operating schedule on page 36 with amendment as follows: The Beer Garden will be closed at 23.00 at the latest.

New condition – No disposal of waste/recycling in external refuse containers between 23.00 – 7.00

Protection of Children from Harm: No child should remain on the premises after 21.00 Monday to Sunday

Chair

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Licensing Act 2003 Sub-Committee**Thursday, 14 November 2013**

Present: Councillor Marion Lowe (Chair) and Councillors Hasina Khan and Alan Platt

Also in attendance

Officers: Alex Jackson (Senior Lawyer), Colin Wordsworth (Public Protection Officer) and Dianne Scambler

13.LAS.29 APOLOGIES FOR ABSENCE

There were no apologies for absence.

13.LAS.30 DECLARATIONS OF ANY INTERESTS

There were no declarations of any interests.

13.LAS.31 PROCEDURE

The Chair outlined the procedure for the hearing.

13.LAS.32 DETERMINATION OF APPLICATION FOR A PREMISES LICENCE

The Licensing Sub Committee considered the application for the granting of a premises licence made by Mr Anantharaja Ganeshpillai of 11 Micklehurst Avenue, West Didsbury, Manchester M20 2XR in respect of the Nisa Store, 194-196 Eaves Lane, Chorley PR6 0AU, under Section 17 of the Licensing Act 2003.

The Licensing Act 2003 Sub Committee considered the applicant's application and verbal representations for the granting of the licence and also took into account all the representations both written and verbal that had been made by local residents who were objecting to the proposals.

The premises were formally newsagents for many years and anecdotal evidence suggested that the newsagent operated between 6.00 – 19.30 hours with no alcohol previously being sold at the premises.

The applicant, Mr Ganeshpillai, the proposed Designated Premises Supervisor was requesting operating hours of 06.30 – 23.30 for the supply of alcohol. Along with the mandatory conditions, the applicant had also included a number of additional conditions, mainly concerned with the selling of alcohol that had been agreed with Lancashire Constabulary.

Members noted that a petition had been received by the Council that had included 138 signatures objecting to the application. There were three reasons attached to the petition, of which only one had been deemed a relevant representation as defined in Section 18 of the Licensing Act 2003 and related to the Prevention of Crime and Disorder and Prevention of Public Nuisance.

The Licensing Act 2003 Sub Committee considered the amended guidance issued under Section 182 of the Licensing Act, together with the Councils Statement of Licensing Policy, in particular those paragraphs referred to within the report. The Sub Committee also considered the Human Rights implications, in particular Article 6, Article 8 and Article 1 of the First Protocol of the proportionality Principle and the

changes to the Act that have been made by the Police Reform and Social Responsibility Act 2011.

The Licensing Act 2003 Sub Committee **RESOLVED** to grant the application subject to the mandatory conditions, the further conditions referred to below, and a terminal hour of 10.30pm for the sale of alcohol, Monday to Sunday for the following reasons:

- 1) The Sub Committee noted that none of the responsible authorities had made any representations.
- 2) The Sub Committee did not consider the representations based on the limited off road parking were relevant to the licensing objectives as they are a planning or road traffic management issue. The Sub Committee therefore considered the points at paragraph 3 of the petition received, did not relate to the licensing objectives.
- 3) The Sub Committee did not consider the point at paragraph 2 of the petition submitted to relate to the licensing objectives as it suggested a need for unmet demand.
- 4) The Sub Committee resolved to attach the conditions set out in paragraph 10 of the report as these would promote the licensing objectives, in particular the installation of CCTV would promote the licensing objective of the prevention of crime and disorder.
- 5) The Sub Committee had regard to paragraph 10.13 of the Section 182 Guidance which states that shops should normally be free to provide sales of alcohol for consumption of the premises whenever the retail outlet is open for shopping unless there are good reasons based on the licensing objectives for restricting these hours.
- 6) The Sub Committee had regard to paragraph 7.3 of the Council's Statement of Policy which recognises that the risk to disturbance to local residents is greater when licensable activities continue late at night and into the early hours of the morning as the ambient noise levels will be lower. With this in mind Members considered that a terminal hour of 10.30pm for the sale of alcohol on the licence, Monday to Sunday was more likely to promote the licensing objective of the prevention of public nuisance and the prevention of crime and disorder.

Chair

Licensing Act 2003 Sub-Committee**Wednesday, 5 March 2014**

Present: Councillor Marion Lowe (Chair) and Councillors Adrian Lowe and Mick Muncaster

Also in attendance

Officers: Zeynab Patel (Solicitor), Elizabeth Walsh (Solicitor), Stephen Culleton (Licensing Officer) and Dianne Scambler (Democratic and Member Services Officer)

14.LAS.33 APOLOGIES FOR ABSENCE

An apology for absence was received by Councillor Keith Iddon.

14.LAS.34 CHANGE OF MEMBERSHIP

Councillor Mick Muncaster sat on the Sub Committee in the absence of Councillor Keith Iddon.

14.LAS.35 DECLARATIONS OF ANY INTERESTS

No declarations of any interests were declared.

14.LAS.36 PROCEDURE

The Chair outlined the procedure for the hearing.

14.LAS.37 DETERMINATION OF APPLICATION FOR A PREMISES LICENCE : CROSTON COMMUNITY CENTRE

The Licensing Sub Committee considered the application for the granting of a premises licence made by Mr J Forrest, the Chairman in respect of the Croston Community Centre, Castle Walks, Croston, PR26 9RH in light of representations made towards the application under Section 18 of the Licensing Act 2003.

The Council had received the application on 21 January 2014.

None of the 'Responsible Authorities' made representations. There were two representations from 'other persons'.

The Licensing Sub Committee has carefully considered the applicants written and verbal representations for the application for the granting of a premises licence and have also taken into account all the representations both written and verbal that had been made by local residents who were objecting to the proposals.

Members considered the concerns expressed about public safety and noise nuisance issues regarding the current premises.

Members also considered that the conditions proposed by the applicant subject to the amendments below are sufficient to meeting the licensing objectives.

The Sub Committee have considered the guidance issued under Section 182 of the Licensing Act, together with the Council's Statement of Licensing Policy, in particular those paragraphs referred to within the report. The Sub Committee also considered

Human Rights implications, in particular Article 6, Article 8 and Article 1 of the First Protocol of the European Convention on Human Rights and the changes to the Act that have been amended by the Police Reform and Social Responsibility Act 2011.

The Sub Committee **RESOLVED** to grant the application as set out in the report subject to the following additional and amended conditions for the licence:

Regulated Entertainment:

Provision of plays	Sunday to Thursday 08.00 – 22.00 indoors Friday and Saturday 08.00 – 23.00 indoors
Provision of film	Sunday to Thursday 08.00 – 22.00 indoors Friday and Saturday 08.00 – 23.00 indoors
Provision of indoor sporting Events	Sunday to Thursday 08.00 – 22.00 Friday and Saturday 08.00 – 23.00
Live music	Sunday to Thursday 08.00 – 22.00 indoors and outdoors Friday and Saturday 08.00 – 23.00 indoors and outdoors
Provision of Recorded Music	Sunday to Thursday 08.00 – 22.00 indoors and outdoors Friday and Saturday 08.00 – 23.00 indoors and outdoors
Provision of anything of a similar description to live music, recorded music or performance of dance	Sunday to Thursday 08.00 – 22.00 indoors Friday and Saturday 08.00 - 23.00 indoors
Hours the premises are open to the public	Sunday to Thursday 08.00 – 22.00 Friday and Saturday 08.00 – 23.00

General

A hire contract will be drawn up stating the rules and regulations with regard to the use of the premises for all users highlighting the four licensing objectives. All leader/users will need to sign the document to state that they have read and fully understand the requirements when using the hall. A copy will be retained by both parties. Any leader/user not following the guidance will be removed from the premises.

The prevention of crime and disorder

The premises will be family orientated with parents in attendance. The Committee will not allow parties for teenagers to alleviate the problems associated with alcohol and teenagers.

Public safety

Risk assessments will be undertaken with regards to safety and monitored. There will be annual inspections for gas appliances, fire extinguishers, the fire alarm system, along with weekly inspections of the buildings by members of the Committee to ensure that there are no hazards present within the building. Additionally, the outside lighting will be regularly inspected, more frequently in the winter months to ensure that it is fully functional for entering and exiting the building. Users will be shown the emergency exits and the meeting point if an emergency arises. All main doors will be fitted with self-closing hinges.

The prevention of public nuisance

This will be brought to the attention of the hirer and will form part of the hire contract. Signage will be provided to the exits of the premises to alert users of the centre to a) proceed with care when leaving the premises b) leave quietly having respect for neighbours when leaving the premises c) not congregate outside the main doors to the premises. That all doors and windows of the Community Centre remain closed during regulated entertainment. That any audio speakers used in the Community Centre will face away from Castle Walks. Parties for teenagers will not be allowed.

The protection of children from harm

This will be brought to the attention of the hirer and will form part of the hire contract to ensure that children are not harmed.

The Sub Committee gave due regard to the measures to be put in place to satisfy the licensing objectives and determined the grant of the licence as proportionate in light of all the evidence and representations.

Chair

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Report of	Meeting	Date
Director of People and Places	Licensing and Public Safety Committee	19 March 2014

TAXI LICENCE FEES AND CHARGES – REVIEW OF COST APPORTIONMENT

PURPOSE OF REPORT

1. To advise Members of a review of the cost apportionment of fees and charges for hackney carriage and private hire vehicle related licences and to seek approval for officers to undertake further work to identify where such fees and charges can be revised to ensure compliance and best practice in setting fees and charges for hackney carriage and private hire vehicle related licences.

RECOMMENDATION(S)

2. Members are asked to note the contents of this report and to approve further work to produce a revised fees and charges structure for hackney carriage and private hire vehicle related licences which will be reported back to a future meeting of the Licensing and Public Safety Committee.
3. Members are requested to sanction officer discussions with taxi trade representatives on the outcome of this review and the impact on future changes to the fees and charges structure.

EXECUTIVE SUMMARY OF REPORT

4. Locally set licence fees and charges have been subject to challenge in a number of local authorities to ensure the fees and charges are reasonable and do not seek to raise revenue.
5. Within Chorley Council the current fee structure in terms of cost apportionment was set several years ago. Over recent years the fees and charges have only been subject to inflationary increases or frozen subject to Members decision in any particular year.
6. It is now appropriate to review how the fees and charges are calculated and costs apportioned for several reasons:
 - Local authorities are being increasingly challenged to demonstrate their fees and charges structure meets legislative requirements
 - Recent case law has provided clarity on some of the principles against which fees and charges can be set.
 - It has been several years since a review of this nature has been undertaken
 - Such a review is seen as good practice
 - Representatives of Chorley's Hackney Carriage and Private Hire trade have requested we undertake this review to demonstrate how the fees and charges are arrived at for the variety of taxi related licences

7. In essence the cost of processing and in some cases monitoring the licences that are issued should be cost neutral, which in broad terms can be demonstrated with income for licence fees and charges matching the cost of providing the current licensing service. However this broad approach is no longer sufficient and detail on costs apportioned to individual licence types is required.
8. There are a number of principles which now need to be applied to the setting of fees and charges over and above the basic legislative requirements. These are detailed in the body of the report.
9. A significant piece of work has been undertaken by colleagues in Financial Services to establish the activities and costs relating to each taxi licence type.
10. The outcome of the review has identified a number of licences where the current fee is undercharged and conversely some licences where the fee charged exceeds the cost of processing and administering the licence. These are detailed in the body of the report.

Confidential report Please bold as appropriate	Yes	No
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CORPORATE PRIORITIES

11. This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all		A strong local economy	√
Clean, safe and healthy communities		An ambitious council that does more to meet the needs of residents and the local area	

BACKGROUND

12. There are a number of licences that Chorley Council as a Licensing Authority issue in regard to Hackney Carriage and Private Hire vehicles.

13. These include:

- Drivers licence to drive a private hire vehicle
- Drivers licence to drive a hackney carriage
- A dual drivers licence permitting the driving of both types of vehicle
- Operators licence for up to 5 private hire vehicles
- Operators licence for 6 to 10 private hire vehicles
- Operators licence for 11 or over private hire vehicles
- A vehicle licence to use a vehicle as a hackney carriage
- A vehicle licence to use a vehicle as a private hire

A number of these licences have renewal or transfer fees that differ from the base cost of issuing the licence for the first time.

14. The principles that should be applied to the setting of fees and charges are contained in legislation, impacted by European Directive and influenced by case law.
15. The relevant legislation is contained in the Local Government (Miscellaneous Provisions) Act 1976. (the Act)

16. Section 53 of the Act states: “a district council may demand and recover for the grant to any person of a licence to drive a hackney carriage, or a private hire vehicle, as the case may be, such a fee as they consider reasonable with a view to recovering the costs of issue and administration and may remit the whole or part of the fee in respect of a private hire vehicle in any case in which they think it appropriate to do so.”

17. Section 70 of the Act states:

“a district council may charge such fees for the grant of vehicle and operators' licences as may be resolved by them from time to time and as may be sufficient in the aggregate to cover in whole or in part—

- (a) the reasonable cost of the carrying out by or on behalf of the district council of inspections of hackney carriages and private hire vehicles for the purpose of determining whether any such licence should be granted or renewed;*
- (b) the reasonable cost of providing hackney carriage stands; and*
- (c) any reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles.”*

18. In addition the EU Services Directive 2006 /123 which became effective in 2009 lays down a further principle to be applied in setting fees and charges for regulated services as follows:

“any charges which the applicant may incur from their application shall be reasonable and proportionate to the cost of the authorisation procedures and shall not exceed the cost of the procedures”

19. Finally, recent case law arising out of actions brought against Manchester City Council and Guildford Borough Council has led the Chartered Institute of Public Finance and Accounting to provide guidance on best practice which includes:

- A licensing authority cannot use licence fees to raise revenue generally
- A licensing authority must carry forward surplus or deficit
- It is reasonable to account for licensing fees and charges over a 3 year cycle – this will take account on fluctuations in demand for licences and avoid the need to review and amend the charging structure annually
- Licensing authorities cannot “lump” all licence fees together which means each charging regime e.g. street trading or premises licences must be separately accounted for from, say taxi licences.
- The licensing authority must be able to justify the fee levied

20. The review of Chorley Councils taxi licensing fee structure has taken all the above into account and the tables below identify where by applying the principles there is either an overcharge or undercharge in terms of the current fees and charges levied.

	DRIVERS LICENCES							
	Private Hire Drivers			Hackney Carriage Drivers			Dual Badge	
Licence Type	PHD Grant (1 Badge)	PHD Renewal (1 Badge)	PHD- 2nd Badge after initial grant	HCD Grant (1 Badge)	HCD Renewal (1 Badge)	HCD- 2nd badge after initial grant	Dual Badge Grant	Dual Badge Renewal
Current Fee	£166	£145	£135	£166	£145	£135	£228	£208
Actual Cost	£423.41	£332.50	£322.01	£322.55	£231.64	£221.15	£276.04	£176.91
Over/(Under) Charge £	(257.41)	(187.50)	(187.01)	(156.55)	(86.64)	(86.15)	(48.04)	31.09

PRIVATE HIRE OPERATORS LICENCE			
Licence Type	Grant / Renewal (1-5 vehicles)	Grant / Renewal (6-10 vehicles)	Grant / Renewal (11+ vehicles)
Current Fee	£278	£329	£390
Actual Cost	£167.98	£167.98	£167.98
Over/(Under) Charge £	110.02	161.02	222.02

HACKNEY CARIAGE AND PRIVATE HIRE VEHICLES								
Licence Type	Private Hire Vehicles				Hackney Carriage Vehicles			
	PHV Grant	PHV Renewal	PHV Transfer	PHV Change	HCV Grant	HCV Renewal	HCV Transfer	HCV Change
Current Fee	£134	£122	£48	£48	£231	£122	£48	£48
Actual Cost	£101.32	£75.10	£65.18	£96.36	£99.46	£73.24	£63.31	£94.50
Over/(Under) Charge £	32.68	46.90	(17.18)	(48.36)	131.54	48.76	(15.31)	(46.50)

21. The outcome of this review and the methodology applied to determine the real cost of administering, processing and enforcement where applicable will require a fundamental reassessment of our current fees and charges and Members are asked to approve the undertaking of this further work which will be brought back to Members of this Committee at a future date.

IMPLICATIONS OF REPORT

22. This report has implications in the following areas and the relevant Directors' comments are included:

Finance	√	Customer Services	
Human Resources		Equality and Diversity	
Legal	√	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

COMMENTS OF THE STATUTORY FINANCE OFFICER

23. It should be noted that the financial data within the report is based on a number of assumptions with regard to staff time allocations and the subsequent cost of the licencing processes within the report. The findings of the further detailed work, if approved, may have a financial impact on the Council's budget.

COMMENTS OF THE MONITORING OFFICER

24. The proposal is in line with the statutory requirements detailed within the body of the report.

JAMIE CARSON
DIRECTOR OF PEOPLE AND PLACES

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Simon Clark	5732	3 March 2014	Taxifees2014

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Appendix 1

Standard Hourly Rates	PHV	HCV	PHD	HCD	BOTH D	PHV	HCV	PHV	HCV	PHV	HCV	PHD	HCD	BOTH D	PHO	PHO	PHD	HCD		
PPO															278.00	278.00				
CST															329.00	329.00				
TT															390.00	390.00	135.00	135.00		
Cost	48.00	48.00	166.00	166.00	228.00	134.00	231.00	122.00	122.00	48.00	48.00	145.00	145.00	208.00	2.00	15.00	17.00	5.00		
No. Applications 2012/13	16.00	6.00	18.00	8.00		30.00	1.00	198.00	67.00	5.00	2.00									
	Private Hire Vehicle - Change	Hackney Carriage Vehicle - Change	Private Hire Drivers Grant - 1 badge	Hackney Carriage Drivers Grant - 1 badge	Drivers Grant - 2 badges	Private Hire Vehicle Grant	Hackney Carriage Vehicle Grant	Private Hire Vehicle - Renewal	Hackney Carriage Vehicle - Renewal	Private Hire Vehicle - Transfer	Hackney Carriage Vehicle - Transfer	Private Hire Drivers - Renewal 1 badge	Hackney Carriage Drivers - Renewal 1 badge	Drivers - Renewal 2 badges	Operators - Grant Renewal	Operators - Renewal	Private Hire Drivers - Second badge after initial grant	Hackney Carriage Drivers - Second badge after initial grant	Total Time	
Initial check of vehicle	0.75	0.75					0.75	0.75											3.00	
Receipt & verification of application	0.50	0.50					0.50	0.50	0.50	0.50	0.50	1.25	1.25	2.00	0.50	0.50	1.00	1.00	11.50	
Indexing document	0.25	0.25					0.25	0.25	0.25	0.25					0.25	0.25			2.00	
Confirmation from garage	0.25	0.25					0.25	0.25	0.25	0.25									1.50	
Process application	0.75	0.75				1.00	1.00	0.50	0.50	0.75	0.75								6.00	
Receipt and verification of application			2.50	2.50	3.00														8.00	
Refer medicals to PPO			0.25	0.25	0.25														0.75	
Assessment of medical exam			0.25	0.25	0.25														0.75	
Knowledge test appointment			1.50	1.50	1.50														4.50	
Receipt of DBS			0.25	0.25	0.25														0.75	
Issuing of licence			1.00	1.00	1.75														3.75	
Monthly reminder letters								0.25	0.25			0.25	0.25	0.25	0.75	0.75			1.25	
Licence																			1.50	
Licensing and Public Safety Committee - PPC																				
Creating and Verifying the report	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.55
Attendance at Committee inc Chairs Briefing	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.42
Processing Committee Decision	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.28
Licensing and Public Safety Committee - Legal																				
Reviewing & commenting on draft report	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.14
Attendance at committee	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.35
Commenting on draft decision & draft minutes	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.07
Licensing and Public Safety Committee - Democratic Services																				
Co-ordination & distribution of agendas/meetings	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.28
Attendance at committee	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.35
Production of minutes to publication status	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.55
General Licensing Sub Committee - PPO																				
Interview individual/record notes	0.01		0.60	0.25		0.01		0.01		0.01		0.60	0.25				0.60	0.25	2.59	
Creating & verifying report	0.01		1.21	0.50		0.01		0.01		0.01		1.21	0.50				1.21	0.50	5.17	
Attendance at Committee inc Chairs Briefing	0.01		0.63	0.26		0.01		0.01		0.01		0.63	0.26				0.63	0.26	2.69	
Processing Committee decision	0.00		0.42	0.17		0.00		0.00		0.00		0.42	0.17				0.42	0.17	1.79	
General Licensing Sub Committee - Legal																				
Reviewing & commenting on draft report	0.00		0.30	0.13		0.00		0.00		0.00		0.30	0.13				0.30	0.13	1.29	
Attendance at committee	0.01		0.52	0.22		0.01		0.01		0.01		0.52	0.22				0.52	0.22	2.24	
Commenting on draft decision & draft minutes	0.00		0.10	0.04		0.00		0.00		0.00		0.10	0.04				0.10	0.04	0.45	
General Licensing Sub Committee - Democratic Services																				
Co-ordination & distribution of agendas/meetings	0.01		0.75	0.31		0.01		0.01		0.01		0.75	0.31				0.75	0.31	3.23	
Attendance at committee	0.01		0.52	0.22		0.01		0.01		0.01		0.52	0.22				0.52	0.22	2.24	
Production of decision notice	0.01		0.63	0.26		0.01		0.01		0.01		0.63	0.26				0.63	0.26	2.69	
Production of minutes	0.00		0.16	0.06		0.00		0.00		0.00		0.16	0.06				0.16	0.06	0.67	
Licensing Liaison Panel Meetings																				
Preparation and Agenda Setting	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.55
Attendance at Meetings	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.37
Follow up Work	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.55
ANPR																				
Attendance	0.09	0.09				0.09	0.09	0.09	0.09	0.09	0.09								0.69	
Compliance Work			0.50	0.50	0.50							0.50	0.50	0.50			0.50	0.50	4.00	
Hackney Rank Inspections																				
		0.58																	2.34	
Operators - compliance check & complaints																				
															4.24	4.24			8.47	
Complaints/Service Requests																				
Vehicles	0.41	0.41				0.41	0.41	0.41	0.41	0.41	0.41								3.28	
Drivers			2.78	2.78	2.78							2.78	2.78	2.78			2.78	2.78	22.20	
Medical Referrals (Officer Time Only)																				
			0.29	0.29	0.29							0.29	0.29	0.29			0.29	0.29	2.33	
Vehicle Inspections (following accident)																				
	0.22	0.22				0.22	0.22	0.22	0.22	0.22	0.22								1.77	
	3.53	4.05	5.75	5.75	7.00	3.78	4.30	2.78	3.30	2.28	2.80	11.16	7.73	6.06	5.98	5.98	10.66	7.23	100.13	
PPO Costs	28.34	42.47	41.59	180.84	133.43	99.91	42.47	41.59	21.21	20.34	21.21	20.34	173.75	126.35	92.82	120.04	120.04	173.75	126.35	
CST Costs	22.12	11.06	11.06				11.06	11.06	11.06	11.06	11.06	27.65	27.65	44.24	11.06	11.06	22.12	22.12		
TT Costs	19.85	24.81	24.81	109.18	109.18	134.00	29.78	29.78	24.81	24.81	14.89	14.89	4.96	4.96	4.96	19.85	19.85			
PPC Costs	36.22	5.48	5.48	16.04	16.04	16.04	5.48	5.48	5.48	5.48	5.48	16.04	16.04	16.04	5.48	5.48	16.04	16.04		
Legal Costs	35.96	1.47	1.11	34.50	14.94	1.11	1.47	1.11	1.47	1.11	1.47	1.11	1.11	34.50	14.94	1.11	1.11	34.50	14.94	
Democratic Services	28.08	2.46	1.84	59.70	25.80	1.84	2.46	1.84	2.46	1.84	2.46	59.70	25.80	1.84	1.84	1.84	59.70	25.80		
Member Time		8.61	8.61	8.61	8.61	8.61	8.61	8.61	8.61	8.61	8.61	8.61	8.61	8.61	8.61	8.61	8.61	8.61	8.61	
Direct Costs																				
Badges	6.88																			
Internal Plates	1.12																			
Licence Plate Set	5.78																			
DVLA Mandate	6.88																			
Medical Referrals	7.25		7.25	7.25	7.25							7.29	7.29	7.29			7.29	7.29		
Cost of licence	50.00																			
	96.36	94.50	423.41	322.55	276.04	101.32	99.46	75.10	73.24	65.18	63.31	332.50	231.64	176.91	167.98	167.98	322.01	221.15		
(Under)/Over charge per licence	(48.36)	(46.50)	(257.41)	(156.55)	(48.04)	32.68	131.54	46.90	48.76	(17.18)	(15.31)	(187.50)	(86.64)	31.09	222.02	222.02	(187.01)	(86.15)		
(Under)/Over collected	(773.75)	(278.99)	(4,633.42)	(1,252.37)	0.00	980.33	131.54	9,285.79	3,266.90	(85.88)	(30.63)	0.00	0.00	0.00	444.04	3,330.27	(3,179.20)	(430.73)		

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Report of	Meeting	Date
Director of People & Places	Licensing & Public Safety Committee	19 th March 2014

AMENDMENT TO THE SCHEME OF DELEGATION

PURPOSE OF REPORT

- To seek Members approval to recommend to full Council the proposal to extend the scope of the Council's Scheme of Delegation to relate to existing private hire and hackney carriage drivers to complement the existing powers delegated to the Director of People and Places relating to those applying for grant of a driver licence.

RECOMMENDATION(S)

- That Members consider the report and approve the proposed changes to the delegated decision scheme to incorporate existing hackney carriage and private hire drivers so that the Director of People and Places in consultation with the Chair or Vice Chair of Licensing and Public Safety Committee is authorised to exercise the powers of the General Licensing Sub-Committee in relation to drivers who already hold a private hire driver licence or hackney carriage driver licence.

Confidential report Please bold as appropriate	Yes	No

CORPORATE PRIORITIES

- This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all		A strong local economy	
Clean, safe and healthy communities		An ambitious council that does more to meet the needs of residents and the local area	X

BACKGROUND

- On 17th September 2009, Members of the Licensing and Public Safety Committee approved a proposal report to amend the scheme of delegation to enable the then Corporate Director of Neighbourhoods to consider and make decisions to grant Drivers' Licence applications in limited circumstances and after consultation with the Chair of Licensing and Public Safety Committee. The report and printed minutes of the meeting are attached as Appendix 1.
- Following a staff restructure which was completed in 2010 the delegated powers of the Corporate Director of Neighbourhoods are now exercised by the Director of People and Places.
- The report was specific in that it requested amendments to the Scheme of Delegation to relate solely to applications for the grant a private hire or hackney carriage driver's licence which fall outside of the Council's usual policies for approval.

7. These delegated powers have been utilised on several occasions since the approval in September 2009 resulting in a more expedient determination of the applications without the need to convene a Sub-Committee for straightforward matters.
8. It has become apparent that there are occasions when similar delegated powers could potentially be utilised in relation to issues of concern identified with existing private hire and hackney carriage driver licences. Such minor breaches of the Council's Driver Licensing Conditions include but are not limited to motoring convictions and failures to report convictions within the specific timescales laid down in licence conditions.
9. The briefing and determination process by the Director of People and Places would remain the same and the benefits to both the driver and Council as highlighted above are clear. Matters in relation to which the Director does not feel able to approve the utilisation of the scheme following consultation would continue to go before the Licensing Sub-Committee. Ultimate control would still rest with the Chair (or Vice Chair if the Chair were unavailable) who would have the final say on whether the matter should be referred to General Licensing Sub-Committee.
10. It is envisaged that the powers exercised by the Director of People and Places in consultation with the Chair and Vice-Chair would not extend to suspension or revocation of driver licences for disciplinary matters but instead warning letters as to future conduct for minor breaches.

IMPLICATIONS OF REPORT

11. This report has implications in the following areas and the relevant Directors' comments are included:

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal	X	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

COMMENTS OF THE MONITORING OFFICER

12. The Council has powers under the Local Government (Miscellaneous Provisions) Act 1976 to suspend or revoke existing taxi driver licences. The General Licensing Sub-Committee from time to time decides not to exercise these more drastic sanctions but instead issue a written warning to a driver to lie on the licensing file. This report seeks to delegate such steps to the Director of People and Places in consultation with the Chair or Vice-Chair for less serious matters.
13. There are existing powers delegated to the Director of People and Places to suspend driver licences in relation to serious incidents to be exercised on an urgency basis but these are reported to members to decide whether to re-affirm the suspension, lift the suspension or revoke the licence.

JAMIE CARSON
DIRECTOR OF PEOPLE & PLACES

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Mr Paul Carter	5738	Feb 2014	D/D/SCEHME

Report of	Meeting	Date
Report of the Corporate Director of Governance	Licensing & Public Safety Committee	17/09/2009

AMENDMENT TO THE SCHEME OF DELEGATION – LICENSING COMMITTEE

PURPOSE OF REPORT

1. To propose alterations to the Council's Scheme of Delegation to delegate to the Corporate Director of Neighbourhoods in consultation with the Chair of the Licensing and Public Safety Committee the authority to make decisions on defined Licensing Applications.

RECOMMENDATION(S)

2. That the Licensing and Public Safety Committee approve the delegation to the Corporate Director of Neighbourhoods in consultation with the Chair of Licensing and Public Safety Committee the authority to approve applications for Driver's Licences (either Hackney Carriage or Private Hire Vehicle) which fall outside the Council's usual policies for approval.
3. That the Licensing and Public Safety Committee approve the alteration for the arrangements for Licensing Sub-Committee briefings.

SUMMARY OF REPORT

4. Under the terms of the current scheme of delegation all applications for drivers licences (either Hackney Carriage or Private Hire Vehicles) where the application does not comply with Council Policy must go before a Sub-Committee.
5. This has lead to inappropriate matters being brought before the Sub-Committee, which is particularly frustrating to committee members when the matter is the only agenda item.
6. This report proposes that the scheme of delegation is amended to enable the Corporate Director of Neighbourhoods to consider and make decisions to grant Drivers' Licence applications in limited circumstances and after consultation with the Chair of Licensing and Public Safety Committee. The report further recommends a change to the current Committee briefing arrangements.

REASONS FOR RECOMMENDATION(S)

(If the recommendations are accepted)

7. The adoption of the recommendation will allow for a more efficient resolution of Drivers' Applications and will prevent the convening of Sub-Committee's to consider straight forward applications.

CORPORATE PRIORITIES

8. This report relates to the following Strategic Objectives:

Put Chorley at the heart of regional economic development in the Central Lancashire sub-region		Develop local solutions to climate change.	
Improving equality of opportunity and life chances		Develop the Character and feel of Chorley as a good place to live	
Involving people in their communities		Ensure Chorley Borough Council is a performing organization	X

BACKGROUND

9. At the meeting of the Sub-Committee on 5 August 2009 an application for a private hire drivers licence was heard. The applicant had a relevant conviction. The sentence was an absolute discharge. Council Policy requires that all applications that disclose a relevant conviction must be referred to the Sub-Committee for consideration. Members of the Sub-Committee expressed concern that this application, which was straight forward and a certain grant, should necessitate convening a Sub-Committee. This report proposes a mechanism for addressing Members' concerns.

USE OF DELEGATED POWER

10. Historically, Officers in Chorley have been able to grant taxi licenses only where the application meets the Council's usual policy requirements. Other applications were formerly referred to the full committee and since last April have been delegated to Sub-Committees.
11. In light of the concerns expressed by the Sub-Committee on 5 August 2009 the Licensing and Public Safety Committee are invited to consider amendments to the Scheme of Delegation which would avoid such a situation arising again.
12. It is proposed that the scheme of delegation be amended to authorise the Corporate Director of Neighbourhoods to make decisions in consultation with the Chair of the Licensing and Public Safety Committee to approve applications that are contrary to Council Policy. Applications the Corporate Director does not feel able to grant following consultation would continue to go before the Licensing Sub-Committees.
13. The advantage of the amendment to the scheme of delegation is that Sub-Committees would not be convened to address straight forward matters. Framing the discretion in a positive way, ie the Corporate Director has the discretion to grant, would mean that the Corporate Director alone could not refuse any applications and applicants would still have the right to be heard by Committee. The main disadvantage would be reduced member input into these applications.

BRIEFING PROCESSES

14. The current procedures would be amended to use the current briefing meetings for Licensing and Public Safety Committee as a combined consideration of delegated applications, agenda setting and briefing for the Sub-Committee meeting. The briefing would be moved to an earlier date than the date of the meeting to enable the Corporate

Director to consult the Chair on the exercise of the delegation and where it is decided not to use delegated powers those matters can go onto the next Sub-Committee's agenda.

15. It would further be proposed that the Corporate Director would bring a report to each Licensing and Public Safety Committee detailing the occasions on which the discretion has been exercised.

IMPLICATIONS OF REPORT

16. This report has implications in the following areas and the relevant Corporate Directors' comments are included:

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal	X	No significant implications in this area	

ANDREW DOCHERTY
CORPORATE DIRECTOR (GOVERNANCE)

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Chris Moister	5160	14 August 2009	***

**Licensing and Public Safety Committee
Wednesday, 16 September 2009**

Present: Councillor Keith Iddon (Chair), Councillor Pat Haughton (Vice-Chair) and Councillors Judith Boothman, David Dickinson, Anthony Gee, Hasina Khan, Adrian Lowe, Marion Lowe, Thomas McGowan, Debra Platt and Ralph Snape

09.LPS.22 WELCOME

The Chair welcomed everyone present to the meeting.

09.LPS.23 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Terry Brown, Magda Cullens, Doreen Dickinson, Edward Smith, John Walker and Stella Walsh.

09.LPS.24 DECLARATIONS OF ANY INTERESTS

There were no declarations of interest submitted by the Sub-Committee Members.

09.LPS.25 MINUTES

The minutes of the meeting of the Licensing and Public Safety Committee held on 10 June 2009, be confirmed as a correct record and signed by the Chair.

09.LPS.26 MINUTES OF THE LICENSING SUB-COMMITTEES

The Committee was informed that there was a correction to the date of the Sub-Committee reported as the 14 August 2009. The hearing took place on 17 August 2009.

The minutes of the Licensing Sub Committees held on 25 June 2009, 5 August 2009, 17 August 2009, 25 August 2009 and 2 September 2009 be confirmed as correct records and signed by the Chair.

09.LPS.27 AMENDMENT TO THE SCHEME OF DELEGATION

The Committee considered a report of the Corporate Director (Governance) that proposed alterations to the Council's Scheme of Delegation to delegate to the Corporate Director (Neighbourhoods), in consultation with the Chair of Licensing and Public Safety Committee, the authority to make decisions to grant Hackney Carriage and Private Hire Drivers' Licence applications in limited circumstances.

Members of the Committee were reminded that under the terms of the current scheme of delegation all applications for Drivers' licences where the application does not comply with Council Policy must go before a General Licensing Sub-Committee. This had led to inappropriate matters being brought before the Sub-Committee, which had been frustrating to Committee members when the matter was the only agenda item.

The proposed alterations to the Scheme of Delegation would allow for more efficient resolution of Drivers' Applications and would prevent the convening of Sub-Committee's to consider straight forward applications. The main disadvantage would be reduced member input into these applications. Applications the Corporate Director (Neighbourhoods) felt unable to grant would still have the right to be heard by the Sub-Committee.

The report also proposed changes to the current briefing meetings for Licensing and Public Safety Committee as a combined consideration of delegated applications, agenda setting and briefing for the Sub-Committee meeting. It had been proposed to move the briefing meetings to an earlier date than the date of

the Sub-Committee to enable the Corporate Director (Neighbourhoods) to consult the Chair of the Licensing and Public Safety Committee on the exercise of delegation and where it had been decided not to use delegated powers those matters could go forward to the next Sub-Committee's.

It was further proposed that the Corporate Director (Neighbourhoods) would bring a report to each Licensing and Public Safety Committee detailing the occasion on which discretion had been exercised.

RESOLVED - the Committee agreed by majority decision (10:1) to approve:

- 1. the delegation to the Corporate Director (Neighbourhoods) in consultation with the Chair of Licensing and Public Safety Committee the authority to approve applications for Driver's Licences (either Hackney Carriage or Private Hire Vehicles) which fall outside the Council's usual policies for approval.**
- 2. the alteration for the arrangements for Licensing Sub-Committee briefings as a combined consideration of delegated applications, agenda settings and briefing for the Sub-Committee meeting.**
- 3. the Corporate Director (Neighbourhoods) to report to each Licensing and Public Safety Committee details of the occasions when discretion had been exercised.**

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Report of	Meeting	Date
Director of People and Places	Licensing and Public Safety Committee	19/3/14

REVIEW OF VEHICLE INSPECTION PROCESSES

PURPOSE OF REPORT

1. For the Licensing and Public Safety Committee to consider the current Private Hire / Hackney Carriage vehicle inspection process and alternative options available to the Council with regard to both the pre-inspection of vehicles and the Council's Taxi Test arrangements.

RECOMMENDATION(S)

2. That the Licensing and Public Safety Committee consider the contents of the report and any representation made or received and to advise officers of any changes to the existing pre-inspection arrangements as appropriate.
3. That the Licensing and Public Safety Committee determine whether there is 1) a need to review the Council's arrangements for the Testing of Private Hire / Hackney Carriage Vehicles and 2) whether it would be appropriate to consult with the Taxi trade and the Council's nominated Garages and any other relevant authority regarding any alternative options for the testing of Private Hire / Hackney Carriage Vehicles in light of the current arrangements.

EXECUTIVE SUMMARY OF REPORT

4. At a recent meeting of the Licensing liaison Panel Representations were received by officers in relation to the Private Hire / Hackney Carriage Vehicle application and testing arrangements with regard to separating the MOT vehicle test from the Council's Taxi Test.
5. The current vehicle inspection and testing regime is largely proactive and there are a number of policy documents in place that control the entry for specific types of vehicles to be granted Chorley Private Hire / Hackney Carriage Vehicles Licenses, there are a limited number of designated garages (6) for conducting Taxi Tests located throughout the Borough.
6. The recent review of services within the Health Environment and Neighbourhoods team gives the Council an opportunity to review these licensing processes and ensure that the Council is operating efficiently and with the appropriate level of resilience to ensure best value for customers.
7. There is potential for the removal of the pre-inspection stage in the current vehicle licensing process, this would place further duties and a greater reliance on the Taxi testers at the testing stage.
8. Additional enforcement inspections to ensure compliance with the vehicle licensing conditions following issue of the licence will be required and this may impact on the costs and resources available to the Council for this function.
9. There is potential to change the current administrative arrangements for the testing of Taxis, which are at the present time administered by the Council's transactional team, Taxi Tests are conducted at one of six nominated garages in the area. The costs of this are currently charged within the vehicle licence fee as appropriate and paid for by the vehicle proprietor at the application stage in line with the current legislation with regards to the setting of fees. The Council is invoiced periodically by the garages to recover their costs in relation to providing this service.

- 10. The limitations of the current process and the risks associated to changes to the process are detailed in the report.
- 11. A number of options for consideration by the Licensing and Public Safety Committee are summarised.

Confidential report Please bold as appropriate	Yes	No
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CORPORATE PRIORITIES

- 12. This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all		A strong local economy	
Clean, safe and healthy communities		An ambitious council that does more to meet the needs of residents and the local area	X

BACKGROUND

- 13. The current vehicle inspection and licensing arrangements were introduced in 2008 following a decision by the Licensing and Public Safety Committee, a copy of the report and decision for that meeting is attached as appendix 1 for members as background information. The policy adopted is largely designed to be upfront and proactive and is designed to ensure that any vehicle presented for licensing as a Private Hire / Hackney Carriage Vehicle is fit for purpose prior to the issuing of the said licence.
- 14. Vehicles undergo a pre-inspection carried out by the Lead Licensing and Enforcement Officer. This takes place prior to the proprietor presenting the vehicle for the formal Taxi test assessments at one of the nominated test centres.
- 15. The pre-inspection allows the officer to assess the vehicle against the specific licence conditions and make comment informally to the proprietor as to the suitability of the vehicle to progress through to licence.
- 16. This process provides proprietors with helpful advice and information and allows them the opportunity for rectification of any issues the vehicle may require before any payment for formal testing has been taken. Since the introduction of the policy no vehicles that have undergone the pre-inspection have failed the formal Taxi Test in regards to the Council's conditions of licensing.
- 17. This stage of the process allows the Council to engage it's discretion to ensure that the vehicle meets the conditions of application, it does not interfere with the limited number of taxi tests (no more than 3 per year) as prescribed in the LG(MP) Act 1976. Private Hire / Hackney Carriage Vehicle Conditions of application are attached as appendix 3. The policy reduces the likelihood of enforcement action later in the process and further ensures that faults and defects are rectified prior to testing and that the vehicle is fit for purpose. The Taxi Test may not ordinarily address a fault or defect as the Taxi Test is designed to assess a vehicle to a minimum standard accepting all the vehicle conditions of application have been previously assessed and met.
- 18. There is evidence that this policy has prevented unsuitable vehicles being presented for Taxi Testing.
- 19. The formal Taxi Testing provision is currently restricted to 6 garages within the Borough. The Taxi Test is made by appointment via the Councils OSS as part of the Private Hire / Hackney Carriage Vehicle application process. Chorley Council's transactional team currently administer this part of the process by taking the application and fee from the proprietor and creating a unique reference for the vehicle. The transaction team then arranges for the testing directly with the garage, booking a testing slot and advising the proprietor, and the cost of this administration is reflected in the vehicle licence fees. (Proprietors are encouraged

to pre –arrange a suitable date & time for the Taxi Test with a nominated garage of their choice prior to accessing the application process).

20. The Taxi Test is required to be equivalent to or better than the Ministry Of Transport (MOT) Vehicle Test. Members will recall attaching the MOT Vehicle Test to the Councils taxi testing conditions in 2008.
21. The Councils Taxi Testing Conditions broadly addresses items within a vehicle that one might ordinarily expect to be present in a vehicle relating to comfort, safety and conditions of licensing and ensures specific (Taxi) items are present where there is a legislative requirement. A copy of the Councils Taxi Test is attached as appendix 2.
22. The Council adopted the MOT vehicle test to ensure that mechanical and safety concerns are addressed to a minimum standard. Members should note that at the present time the MOT Vehicle Test is a part of the Councils Taxi Test and is completed at the same time as and is an integral part of the Taxi Test. There are a number of reasons that the MOT Vehicle test is completed with other parts of the Taxi test; and include; The Councils Taxi test must be conducted within the borough, the MOT vehicle test only ensures that the vehicle is road worthy at the time of testing, the MOT Vehicle Test forms a part of the council's provision to ensure that the vehicles it licenses are fit to be licensed at the time it goes through the Councils Taxi Test.
23. Members should note the difference between the vehicle inspection report used as a checklist for the Taxi Test by the testing centres as attached at appendix 2 and the Councils Conditions of application for Private Hire / Hackney Carriage Vehicles which is attached as appendix 3.

LIMITATIONS TO THE EXISTING PROCESSES

24. Presently there is only a single officer, the Lead Licensing and Enforcement Officer, who is sufficiently experienced to carry out the vehicle pre-inspection. Therefore if this officer is unavailable Chorley Council may be unable to fulfil this stage of the process in a timely fashion, potentially delaying the issue of the vehicle licence for the proprietor.
25. If the pre-inspection process is to continue, in order to maintain resilience within the team and continue to provide a good quality service Chorley Council will need to invest in training for a number of other officers within the Regulatory Services Team. There will obviously be some delay before there is sufficient competence to appropriately support the Lead Licensing and Enforcement Officer in this function.
26. The pre-inspection process may be seen by some members of the trade as an additional layer of bureaucracy, when a formal Taxi test is required while others value the requirement of the pre inspection.
27. Concerns have been raised by the taxi trade regarding the restrictions that apply to the Taxi testing. The argument being that if the vehicle has a valid MOT and Taxi Test certificate, which garage this has been obtained from is irrelevant and the presence of these test certificates should be sufficient. The restriction to specific garages and the requirement for the MOT to be incorporated in the Taxi test has been cited as preventing proprietors from getting the best price for the testing.
28. There is an administrative cost to arranging the Taxi Test and this is currently reflected in the vehicle licence fees.

POTENTIAL RISKS TO AMENDING THE EXISTING PROCESSES

29. The removal of the pre-inspection requirement would mean that the issue of the vehicle licence will be based on the minimum standards set out by the MOT and Taxi test and the opportunity to assert the Councils discretion with regards to faults / defects and in applying the Councils Policy regarding Private Hire / Hackney Carriage Vehicle condition of application following the issue of a Licence would be at best limited.
30. There is a risk that unsuitable vehicles, which still pass the Taxi test, will be issued a vehicle licence and will only be identified as unsuitable and non-compliant with the vehicle licensing conditions through enforcement initiatives and inspections. This could compromise public safety.

31. There is a potential for an increased risk of complaints regarding vehicles and the need for more programmed enforcement actions by the Lead Licensing and Enforcement Officer, the extent, likelihood and impact of this is largely unknown. However, prior to the introduction of the pre-inspections, significant issues relating to vehicle quality, non-compliance with vehicle licence conditions and fundamental vehicle safety were commonplace.
32. Should a vehicle receive a licence and then be found to not comply with the vehicle licence conditions the enforcement opportunities to address those issues are both complex and limited. This may result in non-compliant vehicles being able to operate as a taxi, which may pose a risk to both public and the Council.
33. An increase in enforcement activity, which is generally more costly to implement due to the need for additional officer time, would be reasonably anticipated and would have an impact on the overall costs of the service and may result in increased fees and charges in the future.
34. Derestricting the garages used for the Taxi test and relaxing the requirement for the MOT test to be incorporated into the Council's Taxi test may result in garages being unwilling to carry out the single taxi test assessment alone. The Taxi test alone requires the use of the garage for approximately 30 minutes and the charge is set at £10.25. Therefore some garages may find this uneconomic. Should the MOT vehicle test be separated from the Taxi Test the Council's Taxi Test would be compromised and would not follow the Department for Transport best practice guidance.
35. This may in fact result in less choice for proprietors and compromise the Council's responsibility to test Private Hire / Hackney Carriage Vehicles.
36. Derestricting the choice of garages may also undermine the public's confidence in the credibility and effectiveness of the testing, particularly if there is no pre-inspection so the Taxi Test Certificate is the main assessment criterion for the issue of the vehicle licence.

OTHER CONSIDERATIONS

37. Any change to the vehicle inspection processes will require consideration within the current review of fees and charges for the licencing scheme.

SUMMARY OF OPTIONS TO BE CONSIDERED FOR THE VEHICLE INSPECTION PROCESS

38. Removal of the pre-inspection within the vehicle inspection process and reliance on the Taxi test and the proprietor to comply with the vehicle licence conditions. A resultant increase in enforcement initiatives would need to be implemented.
39. Removal of the pre-inspection of vehicles and the addition of more stringent assessments as part of the Taxi test. This would put greater reliance on the testers at the garages to correctly interpret and apply the necessary conditions of application. There is likely to be an increase in costs for the Taxi test as a result of this.
40. Retention of the pre-inspection requirements with increased resources in the Regulatory Services Team for training on vehicle inspections.
41. Introduction of a booking system, requiring proprietors to book pre-inspections in advance so that the Lead Licensing and Enforcement Officer's or Regulatory Services Team Officer's availability can be determined, for instance a set day per week/month (this would need to exclude officer's annual leave commitments etc). The trade would need to accept that there may be a delay in the vehicle licence being issued. There would be some administrative costs in the transactional team for this.
42. Retention of current Taxi test administration by the transactional team in respect of arranging taxi tests to one of the six nominated garages within the borough.
43. Formal consultation and review with the Taxi trade and garages and other interested parties to formulate alternative Taxi test requirements, such as removal of the requirements for the MOT to be incorporated, a change in the administration of the tests, the requirements and conditions within the test, derestriction on the garages permitted to carry out the Council's Taxi testing assessments etc.

IMPLICATIONS OF REPORT

44. This report has implications in the following areas and the relevant Directors' comments are included:

Finance	X	Customer Services	X
Human Resources		Equality and Diversity	
Legal	X	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

COMMENTS OF THE STATUTORY FINANCE OFFICER

45. The contents of this report do not have a direct financial impact on the budget.

COMMENTS OF THE MONITORING OFFICER

46. Under Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 the Council may not licence a private hire vehicle unless it is satisfied that the vehicle is safe, comfortable, suitable for use as a private hire vehicle and in a suitable mechanical condition. Conditions which are reasonably necessary can be attached to a hackney carriage vehicle licence under Section 47 of the 1976 Act. The Council has the power under Section 50(1) of the 1976 Act to require that the owner of a private hire vehicle or hackney carriage presents the vehicle for inspection and testing at a location specified by the Council within the Council's area. This is limited to three occasions per year. Failure to present vehicles without reasonable excuse is an offence.

JAMIE CARSON
DIRECTOR OF PEOPLE AND PLACES

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Lesley Miller	5299	7 March 14	***

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Appendix 1



Report of	Meeting	Date
Corporate Director (Governance)	Licensing and Public Safety Committee	17 September 08

CHORLEY COUNCIL’S CONDITIONS FOR THE LICENSING OF HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

PURPOSE OF REPORT

- To present members with revised conditions for the purpose of licensing Hackney Carriages and Private Hire vehicles to operate within the controlled district of Chorley.

RECOMMENDATION(S)

- Members are recommended:
 - to consider the contents of the report and any representations made by members of the Hackney Carriage (HC) & Private Hire (PH) trade who have been invited today.
 - to ask the Corporate Director of Governance to implement new conditions with effect from 1st November 2008.

CORPORATE PRIORITIES

- This report relates to the following Strategic Objectives:

Put Chorley at the heart of regional economic development in the Central Lancashire sub-region	Develop local solutions to climate change.	
Improving equality of opportunity and life chances	Develop the Character and feel of Chorley as a good place to live	
Involving people in their communities	Ensure Chorley Borough Council is a performing organization	3

BACKGROUND

- Members may recall that this item was attached as agenda item 6, at the meeting of the Licensing and Safety Committee on the 4 June 2008.

Prior to that meeting a number of meetings including a workshop had taken place between the Council and the taxi trade, as part of the consultation and development process for formulating the proposed conditions. It was understood by Officers at the conclusion of those meetings that an acceptable agreement had been reached with the taxi trade to the content of the proposed conditions. The agenda item was withdrawn at the 11th hour as a substantive representation was received via Allanson Solicitors shortly before that meeting.

Following the representation, further consultation by way of workshops and a Licensing Liaison meeting have taken place, and significant modifications have now addressed many of the issues raised.

Since that time members of the Hackney Carriage and Private Hire trade have joined the National Private Hire Association who now act on their behalf. A copy of a representation received by the Council toward this proposal is attached as appendix G2. This includes documents titled Age Policies, a view and alternative suggestions, Taxi and Private Hire vehicle Licensing: Best Practice Guidance; and submissions forwarded on behalf of Chorley Hackney Carriage Association by Allanson Solicitors dated June 2008.

The Licensing Manager has by way of consultation written to all licensed Hackney Carriage and Private Hire drivers and proprietors inviting representations to the proposed conditions, to which we have received one written representation which has concerns for fees, this is attached as appendix G1.

5. THE NEED FOR CHANGE

Members will be aware that Chorley Council has the responsibility to ensure that Hackney Carriages and Private Hire vehicles are suitable and fit for purpose. This means that they must meet conditions as to roadworthiness, suitability, appearance and comfort. The Council has power to require those vehicles to be submitted for inspection and testing and to impose conditions on licences to ensure vehicles are of a suitable standard.

It would appear that the last time the Council's "taxi" licensing conditions were reviewed, was in 1996, some 12 years ago. A number of factors suggest that it is now timely to review those conditions.

It is fair to say that motor vehicle use, the motor trade and the way in which vehicles are traded has changed significantly in the past 12 years. This would also include the expectations of the travelling public who may use 'taxis'.

It is fair to say that the administrative procedures providing the statutory functions for the licensing of vehicles has changed in recent years - notably through the introduction of the Council's One Stop Shop and computerised systems operated by both internal and external customers of the Council including Lalpac, VOSA and the Police automatic number plate recognition system.

Further, with the recent removal of the exemption from licensing under section 75 of the Local Government (Miscellaneous Provisions) Act 1976 which covered vehicles hired on contracts for seven or more days, this could lead to vehicles of a different type and class being presented for licensing. The present licensing conditions offer insufficient guidance to the owners of such vehicles or those charged with testing of such vehicles for the purposes of HC/PH suitability.

The present system operated by Chorley Council requires vehicles to be tested twice a year for the purposes of the taxi test. Under the current arrangements taxi tests are arranged through 4 local garages that are MOT approved. One of those garages has now withdrawn its services of providing taxi testing, as it is uneconomical for them to continue.

The current testing regime may or may not run in sequence with the Hackney Carriage or Private Hire licence or insurance for that vehicle. This factor increases the administrative and enforcement burden on the Council in ensuring vehicles are correctly licensed.

More importantly the current conditions of the taxi test relating to roadworthiness have not necessarily kept pace with changes in the MOT testing regime. This means that newer vehicles are not being tested to current MOT standards and the present arrangements do not meet the minimum statutory criteria, they fall below current best practice. (A copy of the current taxi test is appendix A).

6. PROPOSED TESTING ARRANGEMENTS

It is proposed that the revised conditions will address the concerns highlighted above. Under the proposed new arrangements a vehicle will be primarily tested using the MOT test which is independent to, and controlled by Vehicle Operating Standards Agency (VOSA). The price for the test is set at a government maximum and should this maximum fee be adopted as a condition of the provision of licensing, then the matter of re-determining any fee will not ordinarily have to be reconsidered by the Council in the future as it would be adjusted by VOSA, in line with trade and industry requirements.

It is proposed that the Council will administer the testing arrangements for those vehicles applying for HC/PH vehicle licences, including the payment of testing fees, and the fee shall be payable upon application.

It is proposed that the Council's taxi test is conducted immediately after the conclusion of the MOT test, irrespective of whether that vehicle has passed or has not passed the MOT test. It will be a requirement that the Council's taxi test will be conducted by the same engineer/tester who conducted the MOT test, as this will lead to greater consistency and economies, and that with experience the Council's taxi test would not ordinarily take longer than 15 minutes. The contents of the taxi test are set out in appendix B1 - Report of Hackney Carriage and Private Hire Vehicle Inspection and B2 – Report on Hackney Carriage and Private Hire Vehicle Inspections Guidance. The vehicle will be required to pass both the MOT test and a taxi test as a condition of licensing.

The benefits of adopting the MOT test and revised Council taxi test include the following:

- a) The vehicle will be examined to existing independent testing standard 'MOT' tests that are robustly enforced and tested by VOSA.
- b) The MOT test is uninterrupted and controlled by a maximum fee. Therefore the test is not price led.
- c) Consistency of testing standards.
- d) MOT details are recorded nationally on a central computer.
- e) The revised testing procedure will allow and enhance the testers of vehicles to focus on the Council's taxi test as a separate consideration to the mechanical conditions of the vehicle.
- f) It will offer the vehicle owners the opportunity to have any remedial work carried out at any repair centre to existing standards for the purposes of the MOT test (note only appointed garages may issue MOT test certificates and taxi test reports).
- g) The MOT testing procedure allows for greater transparency for identifying problematic vehicles by the issue of failure notices and advice notes regarding vehicle condition. This will allow for improved targeted enforcement action towards those vehicles giving concerns for safety and condition.

7. CHANGES TO LICENSE PLATE ARRANGEMENTS

The Council's Hackney Carriage and Private Hire vehicle rear plate describes the vehicle by 1) registration number, 2) vehicle type, 3) expiry date, 4) number of people licensed to carry. Members are aware that new livery including new style plates is being introduced. The expiry date shown on the new plates will be the expiry date of either the vehicle license or the taxi test whichever comes first. This will make it much easier for the public

to see that a taxi meets the license conditions. Currently information as to the expiry of the test is shown on the far less visible windscreen disk.

8. **VEHICLES OVER THREE YEARS OLD**

Under the present system vehicles older than 4 years may enter the taxi industry under the discretion of the Licensing Officer if they are in exceptional condition with regard also being given to the age, service history, type, class and the colour of the vehicle. Any such vehicle must have a valid MOT certificate. The provisions at present provide for subjective decision making by officers, with no regard to the mechanical condition of the vehicle. Private Hire and Hackney Carriage vehicles complete a significantly higher mileage than the majority of cars used for domestic purposes. It is therefore reasonable to expect that those vehicles to which the Council have under their control are tested more regularly and thoroughly.

It is proposed that the council introduce a Vehicle Safety Report (VSR) (Appendix C) to further assess the mechanical condition of a vehicle that has reached 3 years of age from date of first registration, (new at first UK registration) and annually thereafter. This will be in addition to two taxi tests (incorporating the MOT procedure) required each year for vehicles of that age.

In the case of a vehicle reaching six years of age or more from the date of first UK registration or at the next renewal application after that date, which fails any part of the taxi test (including the MOT) or the Vehicle Safety Report, there will be a requirement for the vehicle to be tested every four months.

Where a vehicle reaches eight years old from the date of first UK registration fails any part of the taxi test (including MOT) or has any advice note issued against it, it will not be eligible for licensing.

The VSR report will be required as a condition of licensing when:

- a) An application is made for the grant of a HC/PH vehicle licence and the vehicle is more than 3 years old.
- b) On the application for the renewal of a HC/PH vehicle licence where the vehicle is more than 3 years old from first registration or at the next licence application and annually thereafter.
- c) On the request of an authorised officer where the vehicle in question is licensed as a HC/PH vehicle and is subject to a suspension notice. The VSR shall be required to ascertain the vehicle's fitness to have the suspension notice removed, where the officer believes this to be necessary.

The document is designed to give a quantitative measure to the condition of a vehicle that is intended to be used as a Private Hire / Hackney Carriage that is three or more years old. The VSR is broadly based on existing MOT requirements in respect of mechanical items of testing however the report also examines other items not covered by the MOT standards.

However it must be noted that the VSR is not a guarantee that the proposed vehicle will pass the Council's Taxi Test, but gives an indication as to the vehicles overall condition and fitness for purpose to enter the trade and the vehicle will be viewed in conjunction with the Council's Private Hire Vehicle Licence / Hackney Carriage Vehicle Licence conditions of application (items D2 & D1).

It is believed that the Vehicle Safety Report will benefit both the Council and the proprietors of existing and proposed HC/PH vehicles in that:

9. **BUYING A VEHICLE PRIVATELY**

- a) The VSR document should aid proprietors when selecting / buying used vehicles intended for licensing throughout the UK as the document can be completed by any qualified person.
- b) A proprietor wishing to purchase a vehicle more than 3 years old will have a detailed check list to which the vehicle must comply with, he may insist this is met prior to purchase by the vendor.

10. **BUYING A VEHICLE AT AUCTION**

- c) Many auction houses now sell vehicles with an engineer's report, this is not dissimilar to the proposed VSR and may indicate a vehicles condition for use as a taxi prior to purchase.
- d) The VSR will ensure the Council's minimum standard for HC/PH vehicles is maintained on an annual basis and will help establish and maintain standards.
- e) A minimum condition for vehicles on entry to the system, will for the first time, be quantified for mechanical means in addition to the subjective criteria already established.
- f) Public confidence will be reassured as to the condition and appearance of licensed HC/PH vehicles through quantitative scrutiny of the vehicle type and condition.

It is expected that the requirement for a VSR will coincide with the renewal process for existing vehicles at its next renewal on or after the vehicles 3rd birthday.

11. **LICENSING OF TESTERS**

In order that appointed garages can undertake the requirement of the Council's Taxi Test and Vehicle safety Report adequately it will on occasions be necessary to road test the vehicles. In this instance the examiner shall be required to be licensed as a Hackney Carriage / Private Hire driver. The Licensing Manager seeks discretion to issue Hackney carriage / Private Hire drivers licences to named individuals at appointed garages for the purpose of Taxi testing, (a restricted Hackney Carriage and Private Hire drivers licence).

There would be no fees or requirements for the following checks, medical, criminal record check or knowledge test, attached to the issue of these licences. To qualify the person must be employed by the appointed garages, hold an appropriate driving licence with the relevant vehicles classes, hold the appropriate qualifications to test vehicles at MOT standards and declare a restricted use.

12. **ESTABLISHING AGE/OWNERSHIP OF VEHICLES**

The present conditions attached to licensing of Hackney Carriage and Private Hire vehicles do not prescribe that the vehicle registration documents commonly known as the DVLA 'V5' are presented to the Council. In order that the age of a vehicle can be accurately assessed, Officers believe that the V5 document is presented at the time of the Hackney carriage / Private Hire vehicle licence grant or renewal application is made, and presented at the appointed garage at the time of taxi testing.

The V5 shall bear the name or names of the proprietor / proprietors of that vehicle, and the address at which the vehicle will be kept shall be the same as when the proprietor shall be required to afford the Council reasonable facilities to inspect the vehicle.

13. **VEHICLE CONDITIONS**

In accepting that the motor industry has changed in many ways over the past 12 years and more recently the repeal of Local Government (Miscellaneous Provisions) Act 1976 Section 75 exemption, officers now believe it is appropriate to introduce minimum tolerances for vehicle type and construction. This is necessary to address the vast array of vehicles now on the market, that without controlled measures in place, the Council could not refuse a legitimate request to licence.

Examples of vehicles that would perhaps give concern would be vehicles with adjustable configuration for seating or vehicles offering little or no luggage space. It is intended that the conditions as attached at (Appendix D1 – Hackney Carriage Vehicle Licences, Conditions of Application and Appendix D2 – Private Hire Vehicle Licences, Conditions of Application) will address those concerns of vehicle suitability without fettering the discretion of the council by precluding a vehicle type. This will also be reflected in changes to the licensing conditions as attached in Appendix E1 – Conditions Attached to the Issue of a Hackney Carriage Vehicle Licence in Addition to the Statutory Byelaws and Appendix E2 – Conditions Attached to a Private Hire Vehicle Licence.

It would be impossible to envisage all the variants available on the vast number of vehicles in today's marketplace, it is therefore appropriate that all proposed vehicles are given consideration at the discretion of a Licensing Officer. Proprietors will be encouraged to consult with officers prior to purchasing vehicles, this would ensure vehicles will meet with the expectations with regards to design and lay out.

Areas giving concern include:

- Pop-up seats
- Maximum weight for seats
- Luggage room
- Luggage trailers/security (pick ups) SUV's MPVs
- Seating configuration/exit and entry of passengers
- Members will be aware that where differences of opinion exist final decisions will be at the discretion of the Licensing Committee.

14. LIQUID PETROLEUM GAS (LPG) CONVERTED VEHICLES

All Liquid Petroleum Gas (LPG) converted vehicles must produce an LPG Association Installation or Safety Certificate, at the time of application for a Hackney Carriage or Private Hire Licence, when the vehicle is presented for a test, or immediately after the vehicle is fitted with the LPG fuel option. To ensure the safety of vehicles that have been converted to LPG, the Licensing Manager would like to appoint a specialist LPG converter within the borough of Chorley to act upon its behalf in returning the status of any installation of a licensed vehicle, at the discretion of an officer. The cost of which shall be borne by the proprietor.

15. REVISED PROVISIONS TO THE COUNCIL'S DOOR SIGNS

Following consultation with the Hackney Carriage and Private Hire trade it is appropriate to review the requirement as set out in the report of 2 April 2008 relating to door signs.

In that report there was a requirement that no signs shall be placed on the front passenger and drivers doors other than the signs provided by the Council.

It is appropriate that other signs may be attached to the lower part of the door below any door bumper and not to extend more than twelve inches from the bottom of the door sill in any case.

16. FEES

The taxi licensing fees shall remain unchanged save that the proprietor will now pay the Council in respect of the new tests.

Proprietors will be responsible for the full cost of test fees as appropriate at the time of testing and those fees shall be payable to the Council at the time of application. Where vehicles require re-testing with regards to conforming to MOT standards, the vehicles may be retested. Re-testing fees shall apply and these will be imposed by the testing garage.

The maximum MOT test fee is £50.35 at present. Through negotiation with the appointed garages, the Council's taxi test will be conducted immediately after the MOT test for a fixed fee of £9.65 inc VAT and, where appropriate, the annual Vehicle Safety Report (VSR) (for vehicles applying for a HC/PH vehicle licence over 3 years of age) will be conducted at the same time as the Council's taxi test for a fixed fee of £10.00 including VAT. To clarify, the Council's taxi test will consist of the Council's taxi test as at Appendix B1 and include the VOSA MOT, and vehicles over three years old the Vehicle Safety Report as at Appendix C.

Hence a vehicle under 3 years applying for the grant of a HC/PH vehicle licence for 12 months would incur a cost of:

Hackney Carriage		Private Hire	
Licence Fee	£416.00	Licence Fee	£220.00
MOT & taxi test	£60.00	MOT & taxi test	£60.00
Taxi Livery	£23.50 +VAT	Taxi Livery	£23.50 +VAT

It is envisaged that only vehicles under 3 years of age may apply for a HC/PH vehicle licence for a 12-month period. In all other cases where a vehicle is 3 years or older, vehicles will be required to undergo the Councils vehicle testing requirements and be licensed for a period not exceeding six months.

Vehicles applying for a grant of a licence of a HC/PH over 3 years of age will incur costs (for a six monthly licence) of:

Hackney Carriage		Private Hire	
Licence Fee	£216.00	Licence Fee	£125.00
MOT & taxi test VSR	£70.00	MOT & taxi test VSR	£70.00
Taxi Livery	£23.50 +VAT	Taxi Livery	£23.50 +VAT

Renewals will be as above less the cost of livery @ £23.50 plus VAT, plus £10.60 for the rear plate.

For vehicles reaching six years of age, testing will be required every four months and no licence shall be issued for a period of more than four months, as proposed in the summary of charges applicable as attached in Appendix F1.

It is appropriate to allow the proprietors of proposed vehicles to negotiate with a garage or appointed garages, any fee in undertaking the Council's VSR, where that report is used only to establish whether or not the vehicle is suitable to progress to an application for a HC or PH licence. The cost of the VSR is estimated at between £60-£70, when the report is completed in isolation. However it has been broadly agreed with garages that the VSR when conducted at the same time as the Council's taxi test will incur a further charge of £10.00.

17. **ALTERNATIVE OPTIONS**

The options are

- a) to approve the recommendations as presented in the report and approve as a condition of licensing the documents as given in

Appendix B1 – Report of Hackney Carriage / Private Hire Vehicle Inspection

Appendix C – Vehicle Safety Report

Appendix D1 – Hackney Carriage Vehicle Licences conditions of application

Appendix D2 – Private Hire Vehicle Licence conditions of application

Appendix E1 – Conditions attached to the issue of Hackney Carriage licence additional to the statutory byelaws.

Appendix E2 – Conditions attached to the issue of a private hire vehicle licence.

Appendix F1 – Proposed Hackney Carriage and Private Hire vehicle testing structure approximate costs; or

- b) to alter or reject any part of the proposed documents as members see fit.

REASONS

The reasons for the recommendations are fully explained within the report.

IMPLICATIONS OF REPORT

- 18. This report has implications in the following areas and the relevant Corporate Directors' comments are included:

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal	3	No significant implications in this area	

COMMENTS OF THE CORPORATE DIRECTOR OF GOVERNANCE

- 19. There are no additional comments of the Corporate Director of Governance.

ANDREW DOCHERTY
CORPORATE DIRECTOR (GOVERNANCE)

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Stephen Culleton	5665	5 September 08	AD/SC/JA/0909

Appendix 2- REPORT ON HACKNEY CARRIAGE PRIVATE HIRE LICENSING SECTION

Registration no:		Make:	Model:	Colour:	Authentication Stamp	
Recorded mileage		Test date	Time	No passenger seats		
Plate no: HC / PHV	Occupancy on plate (renewals only)	Unique Reference No.	Name of proprietor			
Result of MOT test:	PASS	In the event of failure, please attach original or copy of MOT failure sheet and in any event, any advice notes given.				
	FAIL					
The following items must be covered in addition to standard MOT test					Pass Fail	
1.	Bodywork must not be capable of injuring a passenger or pedestrian, or show damage as a result of an accident.					
2.	Paintwork must be clean and uniform over the whole of the vehicle, and should not show undue discolouration.					
3.	All seats/upholstery/trims must be clean, seats must be securely fitted, there should be no sharp edges which could likely cause injury or damage. Seat coverings, where fitted must be clean and in a good state of repair.					
4.	Interior flooring must have an appropriate covering which should be clean and in a good condition.					
5.	Boot interior (luggage compartment in estate cars) must be clean so as to avoid soiling or damage to luggage stored therein.					
6.	Estate cars must be fitted with a securely fixed, suitable means of luggage restraint, to prevent luggage entering the passenger compartment.					
7.	Windows must be capable of opening and closing by the use of winders or by way of an electric mechanism.					
8.	Table of fares should be exhibited and readily visible to passengers (hackney carriage renewals only).					
9.	Speedometer must be working correctly and illuminated. An interior passenger light, shall be fitted and in working order, and operative.					
10.	Demister fan must be capable of working correctly. Air Con in working order (where fitted).					
11.	All pedal rubbers should be present and not excessively worn, see notes.					
12.	No signage should be displayed except as stated in the Council's terms and conditions.					
13.	A dry powder fire extinguisher not less than 1kg in size must be securely fitted in an accessible position.					
14.	Front seats must be adjustable so as to allow adequate leg room in the rear of the vehicle as stated in the Council's terms and conditions.					
15.	Headroom in rear of vehicle must be adequate according to the Council's terms and conditions.					
16.	A vehicle engine capacity must be at least 1200cc.					
17.	Spare tyre must be securely fixed, adequately inflated and have 3 mm tread depth over central ¾ of tread					
18.	Licence plate must be fitted to rear of vehicle as stated in the Council's terms and conditions (renewals only)					
19.	Roof sign must be capable of illumination when vehicle is available for hire (hackney carriage renewals only)					
20. Taxi meter	A taxi meter must be fitted (Hackney carriage renewals only). Refer to guidance notes					
	Make	Number				
21.	Internal plate, securely fixed in a vertical position so as not to obstruct the drivers view, as stated in the Councils terms and conditions (renewals only)					
22.	Identify fuel type Petrol / Diesel / Hybrid / Other _____ Vehicles fitted with LPG fuel systems, must have an LPG conversion or safety check report from an approved Liquid Petroleum Gas Association installer. Provide certificate number _____					
23.	Was a trailer presented for test with the vehicle Yes / No		I.D. number			
24. Door signs	Signs must be clearly visible and show no signs of tamper damage or weathering (renewals only)					
	Offside – State licence number		Nearside – State licence number			
25.	Any other defect, likely to cause injury or discomfort to the public or occupants of the vehicle (please state, continue over page if reqd)					
26.	Has the vehicle been subject to a road test? Yes / No		27. No smoking signs fitted Yes / No			
28.	VSR required? Yes / No . Please attach report if presented/completed					
The result of this test is	PASS	MOT Testing Station number:				
	FAIL					

SIGNED _____ PRINT NAME _____ DATE _____

On completion of the Taxi Test please fax this form to the Licensing Section with any advice notes or failure notices

White copy to be retained by garage and used for faxing - **Blue** copy is for the driver - **Pink** Copy is for the Council

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Appendix 3

PRIVATE HIRE VEHICLE CONDITIONS

This document sets out the relevant conditions relating to the application for, and operation of a Private Hire Vehicle Licence.

CONDITIONS OF APPLICATION

1. Chorley Council will only issue a Private Hire Vehicle licence when it is satisfied that the person applying for the licence is the proprietor, and all proprietors connected to the vehicle have been declared at the time of application. That person(s) must also:

i. Satisfy the Council that he is a fit and proper person to hold such a licence and to operate a Private Hire Vehicle.

ii. Satisfy the Council that the vehicle is registered under the Vehicles (Excise) Act 1949 or the Vehicles (Excise) Act 1971 or any statutory amendments of those Acts by producing the vehicles registration document at the time of application bearing the name of the proprietor. Where the vehicle is new (not previously registered within the UK) a vendors bill of sale will be acceptable giving:

- Make and model of the vehicle (including plate no. if applicable)
- Vehicle registration number
- The name and address of the buyer and seller
- The date of sale

The proprietor of the vehicle will produce to the council the V5 document upon receipt and at least within 6 weeks of the application date.

iii. Satisfy the Council that there is in force, in relation to the use of the vehicle as a Private Hire Vehicle, a policy of insurance or security complying with the provisions of Part VI of the Road Traffic Act 1972, which covers third party liability both in respect of physical injury or death and also in respect of damage to personal belongings. The policy/certificate of insurance or security must be produced before a licence may be granted.

iv. Present the vehicle for inspection at such place and at such time as the Council may by notice require.

2. Only vehicles declared as new at first registration in the UK will be considered for licensing, except stretched limos etc. Such vehicles will be licensed at the discretion of the Council.

All vehicles on first application and on renewal for a vehicle licence will pay for 6 month vehicle licence and pass the Councils Vehicle Inspection & Safety Test every 6 months.

Documentation

3. Proprietors must produce the following documents in order to progress the application:

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- i. Completed application form in the name of the vehicle proprietor (or joint proprietors) and appropriate fee. An application is not deemed complete if the method of payment is not cleared.
- ii. The DVLA V5C 'log book', **OR**

The V5C2 (New keeper supplement) along with a copy of the V5 in the previous keepers name and a bill of sale, showing the details as outlined at 1 (ii)

NOTE: Where documentation other than a V5C in the applicants name is produced to licence a vehicle, the V5C shall be produced to the Council upon receipt by the registered keeper once received in his/her name or at least within 6 weeks of the application date.

- iii. A UKLPG Safety Certificate relating to the conformity and safe installation of any LPG system attached to the vehicle and in the vehicle proprietors name, where applicable.
- iv. A valid certificate of insurance shall be produced to the Council prior to the grant of the private hire vehicle licence.

DEFINITIONS

4. "Authorised Officer" has the same meaning as in Section 80 of the Local Government (Miscellaneous Provisions) Act 1976.
 "The Council" means the Council of the Borough of Chorley.
 "The identification plates" means the plates and other livery issued by the Council for the purpose of identifying the vehicle as a private hire vehicle.
 "The Proprietor" has the same meaning as in Section 80 of the Local Government (Miscellaneous Provisions) Act 1976.
 "Taximeter" has the same meaning as in Section 80 of the Local Government (Miscellaneous Provisions) Act 1976.

IDENTIFICATION PLATES & LIVERY

5. The identification plate and livery shall remain the property of the Council at all times. The licence plate shall be affixed to the private hire vehicle by the proprietor at his own expense, in the following manner:-
 - a. at the rear of the vehicle, and
 - b. to the exterior of the vehicle, and
 - c. with the number facing to the rear, and
 - d. in a vertical plane, and
 - e. must be affixed by bolts or screws or other similar secure means as approved by the Council, in such a manner as to be easily removed by an Authorised Officer.
6. The proprietor of the private hire vehicle shall ensure the identification plates are maintained and kept in such condition that the information contained on the identification plate is clearly visible to public view at all times.
7. Internal licence plate must be fixed to the dashboard not obscuring the drivers view or on the windscreen outside the swiped area.

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8. The internal disc must be fixed to the windscreen outside the swiped area not obscuring the driver's view with the expiry date information visible from the vehicle exterior.
9. Door signs. The vehicle shall display Council provided livery to the front driver and passenger door fixed in a readable position. The Council's door signs shall be fixed permanently to the vehicle and the use of magnets or other means of temporary fixing shall not be used.

TYPE OF VEHICLE

10. When applying for the grant of a private hire vehicle licence, the proposed vehicle shall be subjected to the approval of the council and the following conditions apply:
 - a. The vehicle must **not** be a vehicle licensed as a hackney carriage or private hire with any other Licensing Authority.
 - b. The vehicle must not be left-hand drive except for stretch limousines or vehicles of similar nature.
 - c. The vehicle must not be a convertible i.e. have a soft top.
 - d. The vehicle must have at least 4 doors.
 - e. The vehicle must have a capacity for at least 4 adult passengers.
 - f. No 'Q' plated vehicles will be considered for licensing.
 - g. Vehicles that have been categorised as 'write offs' by any insurance company at any level will not be considered for licensing.
 - h. It must have at least two side doors for the boarding and alighting of passengers in addition to a separate door for the driver and it must be fitted with at least four road wheels.
 - i. The engine capacity must be adequate for the loads to be carried. Accordingly, the vehicle should have an engine capacity of at least 1200cc.
 - j. Where the vehicle is fitted with continuous seats one person shall be counted for each complete length of 16 inches measured in a straight line lengthwise on the front of each seat, and where any such continuous seat is fitted with arms for the purpose of separating the seating spaces and such arms are so constructed that they can be folded back or otherwise put out of use such seat shall be measured for the purposes of this Regulation as if it had not been fitted with such arms.
 - k. Only one passenger may be accommodated in the front of the vehicle next to the driver in cases where the vehicle is designed to take only one front seat passenger.
 - l. Door catches must be secure at all times whilst being capable of easy operation by passengers.
 - m. Forward mounted driving mirrors must be fitted on both sides of the vehicle and an interior rear mirror must be fitted. The mirrors must be maintained all times.
 - n. The vehicle must **not** be white, unless it is a stretched limousine or other similar vehicle that is acceptable for licensing as a private hire vehicle. Bizarre or garish colour schemes will not be permitted.
 - o. All seats must be fitted with the manufacturer's head restraints.
 - p. Every estate type vehicle must be fitted with the manufacturer's approved or other universal type approved grille, securely fixed to the frame of the vehicle between the passenger area and load (luggage) carrying area.
 - q. Seating for each passenger must be not less than 400mm (16") with a minimum width, measured between the arm rests, or any other point that is

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- protruding into passenger seating area, and be measured between the rear side passenger doors of not less than 1220mm (48”).
- r. No vehicle with rear or side facing seating will be considered for licensing except where that vehicle has been purposely constructed to accommodate such seating and holds a suitable vehicle type approval awarded prior to first UK registration as detailed at 13 below. In any event any vehicle presented with such seating arrangements will be licensed at the discretion of the council.
 - s. Any vehicle application received for a Private Hire Vehicle licence for more than 4 passenger seats, shall have been purposely constructed to accommodate such seating and hold a suitable vehicle type approval, awarded prior to first UK registration as detailed at 13 below. The vehicle shall be of the original manufacturer's design and specification, every seat shall be regarded as a permanent seat, and no seating shall be capable of being stowed within the confines of the body of the vehicle.
 - t. Where any seating is made readily removable by the manufacturer's design, that vehicle shall be fitted with the manufacturer's approved restraint, securely fixed to the frame of the vehicle between the passenger area and load (luggage) carrying area so created by the removal of any seating. Such fixings shall be presented at the time of testing. Where no such approved manufacturer's luggage securing device exists or is fitted then there should be a suitable means of securing luggage provided to the satisfaction of the Council.
 - u. No vehicle presented for licensing shall by any design or feature of that vehicle be capable to offer seating for more than the number of passengers as stated on the Private Hire vehicle licence application. Any modifications made to satisfy this requirement shall be made to the satisfaction of the council.
 - v. Vehicle head room. The height as measured between the rear seat and the roof lining in a vertical plane must be not less than 860mm (34”). This shall be measured at the center of a passenger seat situated between the two rear passenger doors.
 - w. There shall be a minimum gap of 180mm (7”) between the back of any forward seat and the front edge of any rear seating; this shall be measured when the front seating is in its furthest pushed back position. (Seating relates to the base of the seat as opposed to the back support of the seating arrangement).
 - x. No vehicle will be licensed if the passenger has to climb over seats or luggage to gain access or egress, or where such entrance or exit is sited over a fuel tank or high sill. All handles and levers shall be clearly visible and of a type consistent with those fitted to all other doors of the vehicle.
11. Any vehicle incorporating a lifting device shall at first application provide a certificate of conformity issued in accordance with the LOLER Regulations 1998, and produce at any subsequent renewal a certificate of safety issued in accordance with LOLER Regulations 1998 and guidance to the satisfaction of the council
 12. The proprietor of a private hire vehicle shall;
 - a. Provide sufficient means by which any person in the vehicle may communicate with the driver;
 - b. Cause the roof or covering to be kept watertight;
 - c. Provide any necessary windows and a means of opening and closing with not less than one window on each side;
 - d. Cause the seats to be properly cushioned or covered;
 - e. Cause the floor to be provided with a proper carpet, mat, or other suitable covering;

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- f. Cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public use;
 - g. Provide means for securing luggage;
13. At the time of booking the operator shall establish the luggage requirements of the fare and ensure that the vehicle or vehicles provided are sufficient to safely and securely accommodate the fares luggage requirements within the vehicle(s) without compromising the safety of passengers, driver and other road users.
 14. Any vehicle presented for Private Hire licensing shall meet the technical standards for type approval to
 - a. European Whole vehicle type approval
 - b. British National type approval
 - c. British Single vehicles approval or
 - d. British Low volume type approval
 15. Vehicles presented at first licensing from 5th October 2010 intended to provide Disability access shall for the purpose of Type 1 Disability Access will have the following.
 - a. A means of permitting access & egress to the rear interior of the vehicle for an occupied adult wheelchair.
 - b. Has a British National type Approval (sec (1) of the RTA 1998) certificate issued prior to first UK registration, in conjunction with type approval as detailed at 13 above.
 - c. The vehicle shall be able to accommodate 2 additional passengers in permanent seats in addition to the provision of a wheel chair.
 - d. The vehicle shall be of a suitable design to accommodate a wheelchair and passengers in comfort.
 - e. Any and all modifications shall be to E1 type Approved and marked accordingly or equivalent.
 - f. The vehicle shall be designed to accommodate all equipment securely and safely.
 - g. Handles and grips should be sufficient to aid the access and egress of passengers and be brightly coloured.
 16. Vehicles presented at first licensing from 5th October 2010 intended to provide Disability access shall for the purpose of Type 2 Disability Access will have the following.
 - a. Handles and grips should be sufficient to aid the access and egress of passengers and be brightly coloured.
 - b. Offer suitable space to accommodate a folded wheelchair and will not protrude into the cabin space and be safely secured
 17. All vehicles of Type 1 or 2 Disability Access shall display the appropriate disability emblem in a prominent position on the vehicle.

CONDITIONS OF VEHICLE LICENCE**CONDITION OF VEHICLE**

18. The proprietor shall ensure that the private hire vehicle shall be maintained in a sound mechanical and structural condition and be capable of satisfying the Council's Vehicle Inspection & Safety Test at all times.

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19. The proprietor or proprietors as defined in Section 80 of the Local Government (Miscellaneous Provisions) Act 1976 shall be jointly and severally responsible for the vehicle and all its fittings and equipment and shall ensure that at all times when the vehicle is in use or available for hire it is maintained in an efficient, safe, tidy and clean condition and that all relevant statutory requirements including in particular those contained in Motor Vehicles (Construction and Use) Regulations are fully complied with.
20. The proprietor shall not allow the mechanical and structural specification of the private hire vehicle to be varied without the consent of an Authorised Officer of the Council. Unauthorised variations will result in the licence becoming immediately invalid.

LPG POWERED VEHICLES

21. When a LPG system is fitted to an existing private hire vehicle, a certificate of conformity shall be presented to the Council immediately upon completion of the LPG installation and the vehicle shall not be eligible to act as a private hire vehicle until the conversion is to the satisfaction of the Council.

SIGNS, NOTICES ETC

22. No signs, notices, advertisements, plates, marks, numbers, letters, figures, symbols, emblems or devices whatsoever shall be displayed on, in or from the vehicle except as may be required by any statutory provision or required or permitted by these conditions.

This condition shall **not** apply to a sign which:

- a. Contains no words or numbers other than the name, address and telephone number of the operator of the vehicle or the name under which he carries on his business and his business address and telephone number. Provided that in the opinion of the Council the wording of any sign does not appear to lead any person to believe that the vehicle is a hackney carriage;
 - b. Displays sponsored commercial advertisements to be displayed on the rear passenger's doors, for which display prior written permission has been obtained from the Council.
 - c. displays an information sticker or disc describing membership of a taxi trade associations or similar taxi trade body is permitted in the windscreen of licensed hackney carriage and private hire vehicles provided that it is of such a size and in such a position so as not to obscure the field of vision of the driver. The display of such sticker or disc shall be limited to one per vehicle.
23. Roof signs are not permitted on private hire vehicles.
24. Any additional livery must not be above 12" measured from the bottom of the door, and in any case must not protrude higher than the bump bar strip fitted to the door, this area will be regarded as the lower panel of the door.

PASSENGERS

25. The proprietor shall not permit the Private Hire Vehicle to be used to carry a greater number of passengers than that prescribed in the licence.

ANIMALS

26. The proprietor shall not permit any animal to ride in the vehicle except an animal in the custody or control of the hirer which animal shall be conveyed in the rear of the vehicle.

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27. The licensee must carry a guide, hearing or other prescribed assistance dog belonging to a passenger, free of charge, unless the driver has a proven medical condition that would preclude such action. Drivers have a responsibility to ensure that their operator/company is aware of such medical condition when they are first employed.

LICENCES

28. The proprietor shall deposit the vehicle licence issued by the Council with the private hire operator for whom the vehicle is being used during the time it is so used for that operator.

TWO-WAY RADIOS

29. The proprietor shall ensure that any radio equipment fitted to the private hire vehicle is at all times kept in a safe and sound condition and maintained in proper working order.
30. That any means of radio communication used by the proprietor or driver of a private hire vehicle with respect to the operation thereof must be a means of radio communication using radio frequencies other than those licensed by the Department of Trade and Industry for use by Citizens Band Radio.

CHANGE OF ADDRESS

31. The proprietor shall notify the Council in writing of any change in his address within 7 days of such change taking place.

METERS

32. Where a taximeter is fitted, it must be calibrated and the table of fares shall be prominently displayed within the vehicle. Any fares should be previously agreed by the Council. The meter shall bear the original seal(s) as fitted by the person authorised to carry out the calibration.
33. The calibration certificate should be made available to an authorised officer upon request.

DRIVERS

34. No person, other than a holder of a current private hire driver's licence issued by the Council is permitted to drive the private hire vehicle.

ACCIDENTS

35. The proprietor of a Private Hire Vehicle shall report to the Council as soon as reasonably practicable, and in any case within 72 hours of the occurrence, any accident to the licensed vehicle causing damage materially affecting the safety, performance and appearance of the licensed vehicle or the comfort or convenience of persons carried.

RECORD BOOKS AND RECEIPTS

36. The proprietor shall ensure that a record book is kept at all times in the vehicle. This record book must show the occasions when a receipt is issued. A receipt must be given if requested and each receipt must show the licence number of the driver, the date and the amount charged. A sign should be displayed in the vehicle indicating that a receipt will be given if requested.

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RADIO SCANNERS

37. The Licensee shall not fit, carry, or use any radio frequency scanning apparatus in or on a licensed vehicle.

INSURANCE

38. A private hire vehicle must be insured at all times during the period of the licence. The licence is invalid if it is not insured.
39. Where the insurance produced with the application for or renewal of this licence is due to expire before the date of expiry of the licence a current insurance document must be produced either on or before the date when the original insurance expires. It is the responsibility of the proprietor to ensure that a current insurance document is produced to the Licensing Section.

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HACKNEY CARRIAGE VEHICLE CONDITIONS

This document sets out the relevant conditions relating to the application for, and operation of a Hackney Carriage Vehicle Licence.

CONDITIONS OF APPLICATION

1. Chorley Council will only issue a Hackney Carriage Vehicle licence when it is satisfied that the person applying for the licence is the proprietor, and all proprietors connected to the vehicle have been declared at the time of application. That person(s) must also:

- i) Satisfy the Council that he is a fit and proper person to hold such a licence and to operate a Hackney Carriage.
- ii) Satisfy the Council that the vehicle is registered under the Vehicles (Excise) Act 1949 or the Vehicles (Excise) Act 1971 or any statutory amendments of those Acts by producing the vehicles registration document at the time of application bearing the name of the proprietor. Where the vehicle is new (not previously registered within the UK) a vendors bill of sale will be acceptable giving:
 - Make and model of the vehicle (including plate no. if applicable)
 - Vehicle registration number
 - The name and address of the buyer and seller
 - The date of sale

The proprietor of the vehicle will produce to the council the V5 document upon receipt and at least within 6 weeks of the application date.

- iii) Satisfy the Council that there is in force, in relation to the use of the vehicle as a Hackney Carriage Vehicle, a policy of insurance or security complying with the provisions of Part VI of the Road Traffic Act 1972, which covers third party liability both in respect of physical injury or death and also in respect of damage to personal belongings. The policy/certificate of insurance or security must be produced before a licence may be granted.
- iv) Present the vehicle for inspection at such place and at such time as the Council may by notice require.

All vehicles on first application and on renewal for a vehicle licence will pay for 6 month vehicle licence and pass the Councils Vehicle Inspection & Safety Test every 6 months.

Documentation

2. Proprietors must produce the following documents in order to progress the application:

- i) Completed application form in the name of the vehicle proprietor (or joint proprietors) and appropriate fee. An application is not deemed complete if the method of payment is not cleared.
- ii) The DVLA V5C 'log book', **OR**

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The V5C2 (New keeper supplement) along with a copy of the V5 in the previous keepers name and a bill of sale, showing the details as outlined at 1 (ii)

NOTE: Where documentation other than a V5C in the applicants name is produced to licence a vehicle, the V5C shall be produced to the Council upon receipt by the registered keeper once received in his/her name or at least within 6 weeks of the application date.

- iii) A UKLPG Safety Certificate relating to the conformity and safe installation of any LPG system attached to the vehicle and in the vehicle proprietors name, where applicable.
- iv) A valid certificate of insurance shall be produced to the council prior to the grant of the hackney carriage vehicle licence.

DEFINITIONS

3. "Authorised Officer" has the same meaning as in Section 80 of the Local Government (Miscellaneous Provisions) Act, 1976.
 "The Council" means the Council of the Borough of Chorley.
 "Taxi" has the same meaning as in the Transport Act, 1985.
 "The identification plates" mean the plates and livery issued by the Council for the purpose of identifying the vehicle as a hackney carriage.
 "The proprietor" has the same meaning as in Section 80 of the Local Government (Miscellaneous Provisions) Act, 1976.
 "Taximeter" has the same meaning as in Section 80 of the Local Government (Miscellaneous Provisions) Act, 1976.
 "Byelaws" are those byelaws made in pursuance of the Town Police Clauses Act, 1847 and the Local Government (Miscellaneous Provisions) Act, 1976.

IDENTIFICATION PLATES & LIVERY

4. The identification plate and livery shall remain the property of the Council at all times. The licence plate shall be affixed to the Hackney Carriage vehicle by the proprietor at his own expense, in the following manner:-
- (a) at the rear of the vehicle, and
 - (b) to the exterior of the vehicle, and
 - (c) with the number facing to the rear, and
 - (d) in a vertical plane, and
 - (e) must be affixed by bolts or screws or other similar secure means as approved by the Council, in such a manner as to be easily removed by an Authorised Officer.
5. The proprietor of the Hackney Carriage vehicle shall ensure the identification plates are maintained and kept in such condition that the information contained on the identification plate is clearly visible to public view at all times.
6. The internal disc must be fixed to the windscreen outside the swiped area not obscuring the driver's view with the expiry date information visible from the vehicle exterior.
7. Internal licence plate must be fixed to the dashboard not obscuring the drivers view or on the windscreen outside the swiped area.
8. Door signs. The vehicle shall display Council provided livery to the front driver and passenger door fixed in a readable position. The Council's door signs shall be fixed permanently to the vehicle and the use of magnets or other means of temporary fixing shall not be used.

TYPE OF VEHICLE

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9. When applying for the grant of a hackney carriage vehicle licence, the proposed vehicle shall be subjected to the approval of the council and the following conditions apply:
- a) The vehicle **must be** a vehicle approved for use as a hackney carriage in Chorley and not be licensed as a hackney carriage or private hire vehicle with any other Licensing Authority.
 - b) The vehicle must not be left hand drive.
 - c) The vehicle must not be a convertible, i.e. have a soft top.
 - d) The vehicle must have at least 4 doors.
 - e) No 'Q' plated vehicles will be considered for licensing.
 - f) Vehicles that have been categorised as 'write offs' by any insurance company at any level will not be considered for licensing.
 - g) It must have at least two side doors for the boarding and alighting of passengers in addition to a separate door for the driver and it must be fitted with at least four road wheels.
 - h) The vehicle must have a capacity for at least 4 adult passengers.
 - i) The engine capacity must be adequate for the loads to be carried. Accordingly, the vehicle should have an engine capacity of at least 1200cc.
 - j) Where the vehicle is fitted with continuous seats, one person shall be counted for each complete length of 16 inches measured in a straight line lengthwise on the front of each seat, and where any such continuous seat is fitted with arms for the purpose of separating the seating spaces and such arms are so constructed that they can be folded back or otherwise put out of use, such seat shall be measured for the purposes of this Regulation as if it had not been fitted with such arms.
 - k) Only one passenger may be accommodated in the front of the vehicle next to the driver in cases where the vehicle is designed to take only one front seat passenger.
 - l) Door catches must be secure at all times whilst being capable of easy operation by passengers.
 - m) Forward mounted driving mirrors must be fitted on both sides of the vehicle and an interior rear mirror must be fitted. The mirrors must be maintained all times.
 - n) The vehicle must be white unless it is a purpose built or approved converted / modified wheelchair accessible Hackney Carriage.
 - o) Every estate type vehicle be fitted with the manufacturer's approved or other universal type approved grille, securely fixed to the frame of the vehicle between the passenger area and load (luggage) carrying area.
 - p) All seats must be fitted with the manufacturer's head restraints.
 - q) Seating for each passenger must be not less than 400mm (16") with a minimum width, measured between the arm rests, or any other point that is protruding into passenger seating area, and be measured between the rear side passenger doors of not less than 1220mm (48").
 - r) Any vehicle application received for a Hackney Carriage vehicle licence for more than 4 passenger seats, that vehicle shall have been purposely constructed to accommodate such seating and hold a suitable vehicle type approval, awarded prior to first UK registration as detailed at 12 below. The vehicle shall be of the original manufactures design and specification, every seat shall be regarded as a permanent seat, and no seating shall be capable of being stowed within the confines of the body of the vehicle (except for purpose built Hackney Carriage Vehicles).
 - s) No vehicle presented for licensing shall by any design or feature of that vehicle be capable to offer seating for more than the number of passengers as stated on the Hackney Carriage vehicle license application. Any modifications made to satisfy this requirement shall be made to the satisfaction of the council.

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- t) There shall be a minimum gap of 180mm (7") between the back of any forward seat and the front edge of any rear seating; this shall be measured when the front seating is in its furthest pushed back position. (Seating relates to the base of the seat as opposed to the back support of the seating arrangement).
- u) The height as measured between the rear seat and the height to the roof lining in a vertical plane must be not less than 860mm (34"). This shall be measured at the center of a passenger seat situated between the two rear passenger doors.
- v) No vehicle will be licensed if the passenger has to climb over seats or luggage to gain access or egress, or where such entrance or exit is sited over a fuel tank or high sill. All handles and levers shall be clearly visible and of a type consistent with those fitted to all other doors of the vehicle.

11. The proposed vehicle shall be subjected to the approval of the council and:

- i) provide sufficient means by which any person in the vehicle may communicate with the driver;
- ii) Cause the roof or covering to be kept watertight;
- iii) Provide any necessary windows and a means of opening and closing with not less than one window on each side;
- iv) cause the seats to be properly cushioned or covered;
- v) cause the floor to be provided with a proper carpet, mat, or other suitable covering;
- vi) cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public use;
- vii) Provide means for securing luggage

11. Any vehicle incorporating a lifting device shall at first application provide a certificate of conformity issued in accordance with the LOLER Regulations 1998, and produce at any subsequent renewal a certificate of safety issued in accordance with LOLER Regulations 1998 and guidance to the satisfaction of the council

12. Any vehicle presented for Hackney carriage licensing shall meet the technical standards for type approval to

- a) European Whole vehicle type approval
- b) British National type approval
- c) British Single vehicles approval or
- d) British Low volume type approval

13. Vehicles presented at first licensing from **5th October 2010** intended to provide Disability access shall for the purpose of Type 1 Disability Access will have the following:

- a) Wheel chair means of access and egress and means of securing wheelchairs safely in the vehicle where all fixtures and fitting meet E1 Type Approval or equivalent.
- b) A fixed bulkhead incorporating:
 - i) A partition screen
 - ii) A pay point
 - iii) Assisted means of communication.
- c) Offer suitable accommodation for the provision of at least one adult size occupied wheelchair.
- d) Suitable hand grips designed to be clearly recognisable to aid in the access and egress of passengers.

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- e) A forward facing illuminated top sign permanently fixed to; or a built-in taxi sign as an integral part of the structure and operated by the taxi meter (The top sign does not have to display the words Chorley Borough Council)
 - f) All vehicles will have 2 side passenger doors to access the rear compartment of the vehicle.
 - g) All seats must be accessible by a clear permanent opening of 400mm
 - h) All wheelchair accessible vehicles will have provision for at least two permanently fixed passenger seats in the rear compartment of the vehicle.
 - i) All vehicles will have been converted by a recognised coachbuilder / conversion company.
 - j) Any ancillary equipment shall be capable of being stored securely and safely
 - k) All vehicles will be inspected and licensed at the discretion of the Council,
 - l) Those vehicles that are presented for licensing that are purpose built as defined or professionally converted vehicles as conforms to a-h above shall be white or any other colour as agreed by the Council at first licensing.
14. All vehicles of Type 1 or 2 Disability Access shall display the appropriate disability emblem in a prominent position on the vehicle.

CONDITIONS OF VEHICLE LICENCE**CONDITION OF VEHICLE**

15. The proprietor shall ensure that the hackney carriage shall be maintained in a sound mechanical and structural condition and be capable of satisfying the Council's Vehicle Inspection & Safety Test at all times.
16. The proprietor or proprietors as defined by Section 80 of the Local Government (Miscellaneous Provisions) Act, 1976 shall be jointly and severally responsible for the vehicle and all its fittings and equipment and shall ensure that at all times when the vehicle is in use or available for hire, it is maintained in an efficient, safe, tidy and clean condition and that all relevant statutory requirements (including in particular those contained in Motor Vehicles (Construction and Use) Regulations) are fully complied with.
17. The proprietor shall not allow the mechanical and structural specification of the hackney carriage to be varied without the consent of an Authorised Officer of the Council. Unauthorised variations will result in the licence becoming immediately invalid.

LPG POWERED VEHICLES

18. When a LPG system is fitted to an existing hackney carriage vehicle, a certificate of conformity shall be presented to the Council immediately upon completion of the LPG installation and the vehicle shall not be eligible to act as a hackney carriage vehicle until the conversion is to the satisfaction of the Council.

TRAILERS

19. No trailer shall be attached to a hackney carriage vehicle unless the trailer has been tested at the same time as the hackney carriage was tested and the trailer is clearly identifiable by a serial number or other permanent mark for purposes of identification.
20. Any trailer must provide secure and weatherproof storage for luggage.

SIGNS, NOTICES, ETC

21. No signs, notices, advertisements, plates, marks, numbers, letters, figures, symbols, emblems or devices whatsoever shall be displayed on, in or from the vehicle except as may be required by any statutory provision or required or permitted by these conditions.

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This condition **shall not** apply to a sign which:

- (a) contains no words or numbers other than the name, address and telephone number of the operator of the vehicle or the name under which he carries on his business and his business address and telephone numbers;
- (b) displays sponsored commercial advertisements, for which prior permission has been obtained from the Council.
- (c) displays an information sticker or disc describing membership of a taxi trade associations or similar taxi trade body is permitted in the windscreen of licensed hackney carriage and private hire vehicles provided that it is of such a size and in such a position so as not to obscure the field of vision of the driver. The display of such sticker or disc shall be limited to one per vehicle.

22. Every hackney carriage vehicle must display in a prominent position inside the vehicle, the Council's table of fares in force at that time.

23. Any additional livery must not be above 12" measured from the bottom of the front passenger and driver door, and in any case must not protrude higher than the bump bar strip fitted to the door, this area will be regarded as the lower panel of the door.

24. The proprietor shall cause to be fixed to the roof of Saloon Type Hackney Carriages an illuminated sign bearing the words "CHORLEY BOROUGH TAXI" on both the forward and rearward faces of the sign. The sign shall be capable of being so operated that when the vehicle is engaged for hire, the sign is not illuminated, this operation shall be controlled by the meter.

PASSENGERS

25. The proprietor shall not permit the Hackney Carriage to be used to carry a greater number of passengers than that prescribed in the licence.

ANIMALS

26. The proprietor shall not permit any animal to ride in the vehicle, except an animal in the custody or control of the hirer which animal shall be conveyed in the rear of the vehicle.

27. The licensee must carry a guide, hearing or other prescribed assistance dog belonging to a passenger, free of charge, unless the driver has a proven medical condition that would preclude such action. Drivers have a responsibility to ensure that their operator/company is aware of such medical condition when they are first employed.

TWO-WAY RADIOS

28. The proprietor shall ensure that any radio equipment fitted to his hackney carriage is at all times kept in a safe and sound condition and maintained in proper working order.

29. That any means of radio communication used by the proprietor or driver of a hackney carriage with respect to the operation thereof must be a means of radio communication using radio frequencies other than those licensed by the Department of Trade and Industry for use by Citizens Band Radio.

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CHANGE OF ADDRESS

30. The proprietor shall notify the Council in writing of any change in his address within 7 days of such change taking place.

DRIVERS

31. No person, other than a holder of a current hackney carriage driver's licence issued by the Council is permitted to drive the hackney carriage.

ACCIDENTS

32. The proprietor of a Hackney Carriage shall report to the Council as soon as is reasonably practicable, and in any case within 72 hours of the occurrence of any accident to the licensed vehicle causing damage materially affecting the safety, performance and appearance of the licensed vehicle or the comfort or convenience of persons carried.

RECORD BOOKS AND RECEIPTS

33. The proprietor shall ensure that a record book is kept at all times in the vehicle. This record book must show the occasions when a receipt is issued. A receipt must be given if requested and each receipt must show the licence number of the driver, the date and the amount charged. A sign should be displayed in the vehicle indicating that a receipt will be given if requested.

METERS

34. The taximeter that must be fitted in accordance with hackney carriage byelaws must be calibrated so that the fare shown is the current fare authorised by the Council. The meter shall bear the original seal(s) as fitted by the person authorised to carry out the calibration.
35. The calibration certificate should be made available to an authorised officer upon request.

RADIO SCANNERS

36. The licensee shall not fit, carry or use any radio frequency scanning apparatus in or on a licensed vehicle.

INSURANCE

37. A hackney carriage vehicle must be insured at all times during the period of the licence. The licence is invalid if it is not insured.
38. Where the insurance produced with the application for or renewal of this licence is due to expire before the date of expiry of the licence a current insurance document must be produced either on or before the date when the original insurance expires. It is the responsibility of the proprietor to ensure that a current insurance document is produced to the Licensing Section.

ADDITIONAL LICENCE CONDITION

39. Applicable only to licence numbers 32 to 40 inclusive:

This licence is issued specifically in respect of a vehicle constructed or adapted for the carriage of disabled persons. Any replacement vehicle must comply with the conditions as set out in paragraph 13 above.



Report of	Meeting	Date
Director of People and Places	Licensing and Public Safety Committee	19 March 2014

BELOW COST SALES OF ALCOHOL – ENFORCEMENT APPROACH

PURPOSE OF REPORT

1. To advise Members of the recent guidance published by the Home Office on the banning of the sale of alcohol below the cost of duty plus VAT (below cost sales).
2. To seek Members approval for a proposed enforcement approach to this issue

RECOMMENDATION(S)

3. Members are requested to note the report and published guidance.
4. Members are requested to approve a reactive approach to the enforcement of the below cost sales of alcohol

EXECUTIVE SUMMARY OF REPORT

5. The issue of alcohol pricing has been the subject of much debate in the media and between Government, industry, enforcement agencies and health specialists.
6. The debate revolves around the impact that price control on alcohol sales could have on consumption of alcohol and in turn any resultant improved health outcomes for citizens who consume alcohol above the recommend daily intake.
7. In addition it is believed that the effective price control of alcohol could impact on wider issues such as violence related to alcohol consumption; under aged alcohol consumption and acute illness related to high levels of alcohol consumption.
8. The health lobby believes that a minimum unit price (MUP) for alcohol would have the greatest effect.
9. The Government published an Alcohol Strategy in March 2012 which determined that MUP would be a key part of tackling the availability of cheap alcohol. However following consultation on the strategy, in July 2013 the Government revised its approach in terms of price control to a 'below cost' approach.
10. The below cost approach essentially bans the sale of alcohol at a price which falls below the cost of that alcohol in terms of excise duty plus VAT. Appendix 1 to this report details the guidance to suppliers and enforcers in terms of this approach.
11. The Government has indicated the below cost ban will come into effect in early April 2014 and have identified Licensing Authorities, Police and Trading Standards as the agencies who will enforce the ban.

12. In addition the introduction of a ‘below cost’ ban will become a Mandatory Condition on all licences issued in relation to the sale of alcohol. Members will recall that there are already several such mandatory conditions relating to alcohol sales as follows:
- Ban irresponsible promotions;
 - Ban the dispensing of alcohol directly into the mouth; and
 - Ensure that customers have access to free tap water so that they can space out their drinks and not get too intoxicated too quickly.
 - Require an age verification policy to be in place to prevent underage sales; and
 - Ensure that customers have the opportunity to choose small measures of beers, ciders, spirits and wine.
13. It is proposed that the Council takes a reactive approach to enforcement of the below cost ban, ensuring that we liaise with police and trading standards partners and rely on public intelligence relating to sales of alcohol that contravene the ban.
14. Taking a proactive approach is thought not to be cost effective. It is anticipated that the vast majority of alcohol sales will not contravene the below cost ban given current duty and VAT rates.
15. However should the position alter, and a proactive approach is determined to be effective Members will be informed and a report relating to the resource implications will be put before Members at that time.

Confidential report Please bold as appropriate	Yes	No
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CORPORATE PRIORITIES

16. This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all		A strong local economy	
Clean, safe and healthy communities	√	An ambitious council that does more to meet the needs of residents and the local area	

BACKGROUND

17. The Governments ‘Alcohol Strategy’ was published in March 2012 and determined that the cheap availability of alcohol was an issue that need addressing.
18. Following wide consultation on the strategy and in relation to the availability of low cost alcohol, the Government have determined that a ban on selling alcohol below the combined cost of excise duty and VAT should dome into effect from April 2014.
19. The Home Office have published guidance on the detail of a ‘below cost’ ban for suppliers of alcohol and enforcement agencies and the guidance is appended as Appendix 1 to this report.
20. Member’s attention is directed to Annex B in the guidance which provides examples of permitted prices of various alcohol drinks at current rates of duty and VAT.
21. For example the sale of a pint of lager (5.0% Alc) would contravene the ban if it was sold below a price of £0.66p

- 22. Similarly a 2 litre bottle of high alcohol still cider would contravene the ban if it was sold under the price of £1.43.
- 23. In contrast to the original Government proposal of a minimum unit pricing (MUP) approach, Members will see that it is unlikely that sales of alcohol at a below cost level will occur.
- 24. For comparison if a MUP approach had been taken and the MUP was set at say £0.45p it could be anticipated that the minimum price of a pint of lager would be £0.90p assuming a pint of lager constituted two units.
- 25. Similarly in the bottle of cider example, the MUP for a 2 litre bottle would have been around £3.15.
- 26. The below cost ban will become a Mandatory Condition on all premises licence relating to the sale of alcohol, and the responsibility will fall on the licence holder, the designated premises supervisor or personal licence holder to ensure they price their alcohol sales above the permitted price levels
- 27. In terms of enforcement and given the examples provided above it is thought that sales of alcohol in contravention of the ban are likely to be extremely low. Therefore it is proposed to adopt a reactive approach utilising our existing arrangements with the police and trading standards partners to identify where contraventions are occurring and rely on public intelligence to report concerns so that limited resources can be targeted at high risk premises in terms of below cost sales.

IMPLICATIONS OF REPORT

- 28. This report has implications in the following areas and the relevant Directors' comments are included:

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal	√	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

COMMENTS OF THE STATUTORY FINANCE OFFICER

- 29. The contents of this report do not contain any financial implications for the Council's budget.

COMMENTS OF THE MONITORING OFFICER

- 30. The report states the proposed changes to the legislation and outlines an appropriate response to those changes.

JAMIE CARSON
 DIRECTOR OF PEOPLE AND PLACES

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Simon Clark	5732	24 February 2014	LPS below cost sales

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Home Office

Guidance on banning the sale of alcohol below the cost of duty plus VAT

For suppliers of alcohol and enforcement authorities in England and Wales

February 2014

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- Annex A: Alcohol duty rates (2013)
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- Annex D: Implementation checklist
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Introduction

Overview: banning the sale of alcohol below the cost of duty plus VAT

On 23 March 2012 the Government launched its Alcohol Strategy, which aims to radically reshape the approach to alcohol and reduce the number of people drinking to excess. The Alcohol Strategy is targeted at harmful and hazardous consumers and aims to limit the impact on responsible consumers. The Government's response to the Alcohol Strategy consultation, published on 17 July 2013, set out the Government's intention to ban below cost selling to tackle the availability of below cost alcohol.

The Government has established 'cost' as the amount of 'duty plus VAT', defined as the level of alcohol duty ('duty') for a product plus value added tax ('VAT') payable on the duty element of the product price.

This guidance provides a single point of reference for suppliers of alcohol and local authorities in England and Wales for banning the sale of alcohol below the cost of duty plus VAT.

This guidance document provides comprehensive information regarding implementation of the relevant legislation, methods of calculating the amount of duty plus VAT (referred to in legislation as "the permitted price") and effective enforcement of the ban. The content of this guidance relates to proposals to be introduced as draft legislation in early 2014. Therefore the content is subject to parliamentary approval of legislation; if approval is obtained, the legislation will come into force in April 2014.

The ban will prevent businesses from selling alcohol at heavily discounted prices and aims to reduce excessive alcohol consumption and its associated impact on alcohol related crime and health harms.

Who the ban applies to

The ban is a new licensing condition of the Mandatory Code of Practice. The Mandatory Code of Practice applies to all licensed premises, including those with club premises certificates, in England and Wales.

Section 1: Implementing the ban

Responsibility for ensuring compliance of the mandatory condition at premises

Responsibility for ensuring compliance with the mandatory condition setting out the permitted price is the responsibility of a “relevant person”. We have defined “relevant person” (in relation to premises licences) as the premises licence holder, designated premises supervisor or personal licence holder and (in relation to club premises certificates) a member or officer of a club who is present and able to prevent a supply of alcohol.

The premises licence holder, designated premises supervisor or personal licence holder is responsible for ensuring that any person (if different from the licence holder) responsible for amending prices on the premises is aware of the legal requirement to sell alcohol at or above the cost of duty plus VAT on that premises.

In circumstances where local store managers are not responsible for amending the prices in-store, responsibility is applicable to the company headquarters and the person, or persons, who are a “relevant person” under the mandatory condition.

How to calculate the permitted price of duty plus VAT

The level of duty plus VAT is calculated by taking the relevant excise duty figure for a particular product and then applying the current rate of VAT to this amount.

Duty rates differ in accordance with the type of alcohol and often the strength of the product. There are three categories for calculating the permitted price of duty plus VAT. The three categories are:

- 1) Beer
- 2) Spirits, spirit-based ready-to-drinks, wine and made-wine (exceeding 22% ABV)
- 3) Wine, made-wine and cider (not exceeding 22% ABV)

We use the following calculations to determine the permitted price for each product:

Beer permitted price = Duty + VAT

Where Duty (pence) = volume (litres) x strength (% ABV) x duty rate

Spirits, spirit-based ready-to-drinks, wine and made-wine (exceeding 22%) permitted price = Duty + VAT

Where Duty (pence) = volume (litres) x strength (% ABV) x duty rate

Wine, made-wine and cider (not exceeding 22% ABV) permitted price = Duty + VAT

Where Duty (pence) = volume (litres) x duty rate

(Note: duty rates for beer, wine, made-wine and cider are given in pounds per hectolitre. For clarity of calculation, and because of the small quantities involved, this has been translated into pence per litre, which is an identical figure. Duty rates for spirits and other products over 22% ABV are given in pounds per litre of pure alcohol. For clarity of calculation, and because of the small quantities involved, this has been translated into pence per centilitre (i.e. 10ml) of pure alcohol, which is also an identical figure.)

Where a retailer wishes to sell drinks that are mixed, for example, in a cocktail, they should calculate the permitted price using the alcohol contained in the drink.

Where permitted prices are not a whole number of pennies, the price should be rounded up to the nearest whole number.

The duty rates are set out in [Annex A](#).

Worked examples:

440ml can of 4% ABV lager

Beer permitted price = (volume (litres) x strength (% ABV) x duty rate) + VAT
 = (0.44 x 4 x 19.12) x 1.2
 = 40.38144, rounded up to 41 pence

440ml can of 9% ABV lager

Beer permitted price = (volume (litres) x strength (% ABV) x duty rate) + VAT
 = (0.44 x 9 x (19.12 + 5.09)) x 1.2
 = 115.04592, rounded up to £1.16

70cl bottle of 37.5% ABV vodka

Spirits permitted price = (volume (litres) x strength (% ABV) x duty rate) + VAT
 = (0.7 x 37.5 x 28.22) x 1.2
 = 888.93, rounded up to £8.89

500ml bottle of 4.5% ABV sparkling cider

Cider permitted price = (volume (litres) x duty rate) + VAT
 = (0.5 x 39.66) x 1.2
 = 23.796, rounded up to 24 pence

500ml bottle of 4.5% ABV made-wine

Made-wine permitted price = (volume (litres) x duty rate) + VAT
 = (0.5 x 113.01) x 1.2
 = 67.806, rounded up to 68 pence

750ml bottle of 12.5% ABV wine

Wine permitted price = (volume (litres) x duty rate) + VAT
 = (0.75 x 266.72) x 1.2
 = 240.048, rounded up to £2.41

Cocktail containing 50ml 19% ABV port and 275ml 4% ready-to-drink (RTD)

Wine permitted price = (volume (litres) x duty rate) + VAT
 = (0.05 x 355.59) x 1.2
 = 21.3354

RTD permitted price = (volume (litres) x strength (% ABV) x duty rate) + VAT

$$= (0.275 \times 4 \times 28.22) \times 1.2$$

$$= 37.2504$$

Total permitted price = 21.3354 + 37.2504
 = 58.5858, rounded up to 59 pence

It should be noted that there are different duty rates within each of the categories of beer and wine and cider, and that the appropriate rate should be used. See [Annex A](#) for details of the duty rates for each category.

Product	Description	Exceptions	Notable products
Beer	In the Alcoholic Liquor Duties Act 1979, beer is defined as including ale, porter, stout and any other description of beer, and any liquor which is made or sold as a description of beer or as a substitute for beer, whose alcoholic strength exceeds 0.5% ABV. This includes mixtures of beer with non-alcoholic drinks, (for example, with lemonade to produce shandy). Also classified as beer for duty purposes are certain mixtures of beer with alcoholic liquors or substances where the final product strength does not exceed 5.5% ABV	Beer below 1.2% ABV is not subject to duty. Lower-strength beer (2.8% and below) pays the reduced rate. Higher-strength beer (over 7.5% ABV) pays the general beer duty rate plus the higher-strength duty rate. Beer mixed with spirits will be liable to the spirits rate of duty.	Barley wine
Wine and made-wine	Wine is defined as a drink produced by fermentation of fresh grapes or grape must. Made-wine is any other drink - apart from beer or cider - containing alcohol that is made by fermentation, rather than by distillation or any other process.	Still wine and sparkling wine are in different duty brackets. Wine is liable to the sparkling rates of duty if it has an actual alcoholic strength by volume exceeding 5.5 per cent but not exceeding 15 per cent ABV and: in a closed bottle with excess pressure, due to carbon dioxide, of three bars or more at 20°Centigrade, or regardless of pressure, is contained in a closed bottle with a 'mushroom	Wine: Port Sherry Madeira Vermouth Cinzano Mulled wine Made-wine: Mead Sake Ginger wine Fruit-flavoured cider (flavoured with anything except apple juice)

		shaped stopper' held in place by a tie or fastening.	
Cider and perry	<p>For a drink to be classed as cider or perry for duty purposes, the following apply:</p> <p>A pre-fermentation juice requirement. At least 35 per cent apple or pear juice must be included in any mixture from which fermentation takes place.</p> <p>A final product juice requirement. A minimum of 35 per cent apple or pear juice must be included overall in making the final product.</p>	<p>For duty purposes, the following may not be added to cider:</p> <p>(i) any alcoholic liquor, or</p> <p>(ii) any liquor or substance which communicates colour or flavour,</p> <p>other than such as the Commissioners may allow as appearing to them to be necessary to make cider (or perry).</p> <p>The following are classed as made-wine or spirits:</p> <p>cider of 8.5% ABV or more, or labelled or described as 8.5% ABV or more</p> <p>cider including anything other than certain permitted ingredients, or ingredients in more than specific quantities</p>	
Spirits and ready-to-drink spirit based products	There is one duty band for spirits and ready-to-drink products where the alcohol content comes from spirits.	Fortified wines, including sherry and port, should be classed as wines.	

Where a retailer is uncertain about the category to which a product should belong, the retailer should calculate the permitted price using both categories, and use the higher of the duties.

HMRC have published [detailed guidance](#) on the categories of duty payable, and its [guide to alcoholic duties and procedures](#) gives further detail on types of alcoholic drinks.

See [Annex B](#) for a list of the permitted prices of the most common type of alcohol products. We have also provided a link to an online permitted price calculator at [Annex C](#) which can be used to calculate the permitted prices of those products that are not listed in [Annex B](#).

The duty rate that applies on the day of sale to the customer will be the duty rate that should apply for the calculation of the permitted price.

Changes to excise duty and VAT

Duty rates may change each year, typically following the Chancellor's Budget. Therefore, those who supply alcohol will need to ensure the new duty rates are applied to the three formulae in the preceding section when duty rates change.

Revised duty rates usually take effect a short time (usually around five days) after the Budget is announced by the Chancellor. It is required that businesses implement changes to their pricing systems within fourteen calendar days of implementation of the new rate to ensure compliance with the mandatory condition.

The same rule will apply to any change in the rate of VAT.

Updating of pricing systems

Businesses and others who supply alcohol will need to ensure that their pricing systems are accurate to prevent any sale of alcohol below the cost of duty plus VAT. This includes ensuring that prices are accurate on shelves, barcodes, menus and price lists, where appropriate.

It is therefore recommended that businesses follow a series of steps to successfully implement the regulation on the premises. A recommended series of steps can be found at [Annex D](#).

Multibuy promotions

Businesses can continue to sell alcohol as part of buy one get one free promotions. However, businesses will need to ensure that the total purchase price for the package of products is not below the aggregate of the duty plus VAT permitted price for each product comprised in the package. To achieve this, businesses will need to calculate the total of the combined permitted price of each alcoholic product in the promotion.

For example, if a business runs a promotion for the sale of a bottle of whisky with a free bottle of wine then the business will need to combine the permitted price for each of the bottle of whisky (£9.49 for 700ml bottle of whisky with a strength of 40%) and the bottle of wine (£2.41 for 750ml bottle of wine with a strength of 11.5%). $£9.49 + £2.41 = £11.90$ permitted price for both items as part of a buy one get free promotion.

Multibuy promotions on non-alcoholic products

In instances where businesses run a promotion for the sale of an alcoholic product and a free non-alcoholic product (such as chocolates, flowers etc.) and vice-versa, businesses will need to ensure that the total purchase price of the promotion is not below the permitted price of the alcohol product comprised in it (or aggregate of the permitted prices if there is more than one alcohol product) as detailed above.

For example, if a retailer runs a promotion for a meal deal that includes a free bottle of wine then the retailer will need to ensure that the selling price of the meal deal is not below the permitted price of the wine.

Multipack products

Businesses can continue to sell bulk items of alcohol, such as multipacks of beer or ready-to-drink products. Businesses will need to ensure that each multipack is sold above the aggregate of the permitted price of each product in it.

For example, if a business runs a promotion to sell a pack with 24 440ml cans of 4% ABV lager in one multi-pack they will need to calculate the total volume of lager in order to calculate the permitted price.

$24 \times 440\text{ml} = 10.560 \text{ litres}$

Beer permitted price = (volume (litres) x strength (% ABV) x duty rate) + VAT
= $(10.560 \times 4 \times 19.12) \times 1.2$
= 969.15456, rounded up to £9.70

Inclusive drinks

Many businesses run promotions in hotels and restaurants, for example, a free bottle of champagne with a hotel room or a drink included in the price of a table meal. Businesses can continue to run these types of special promotions but will need to ensure that the permitted price of the alcoholic product in question is included in the overall price of the promotion.

For example, where a pub offers a table meal with a pint of 4% beer included in the price, the total cost of the table meal must be at or above the permitted price of the beer (ie 53p).

Complementary drinks

Free drinks provided on an ad hoc basis, for instance those offered as compensation for late food service, do not count as sales because the customer has not paid anything for the drink.

Discount coupons

Businesses may continue to offer discount coupons for alcoholic drinks, but must ensure that the price of the product after all applicable discounts are applied is above the permitted price of the product.

Where a coupon is offered by a producer for a discount on alcohol, retailers should ensure that the price of the drink does not fall below the floor price as a result of that coupon being applied.

Where 'threshold spend' coupons are offered to customers (e.g. save £2 when you spend £15), they may be used to purchase alcohol as long as the total cost of the sale is not below the permitted price for the alcoholic products.

Reward cards

Reward points and vouchers can continue to be used to buy alcohol, either in the store where they were earned, or at partner retailers, on the condition that the points redeemed have an equivalent cash value that is not below the permitted price of the product. Where retailers offer a promotion on reward points or vouchers, the original value of the voucher shall be taken into account.

The price of an alcoholic product is considered to be the amount of money paid by the purchaser at the time of sale. Proxy benefits to the customer from the sale, for instance in the form of reward points, should not be considered as a part of the purchase price, as they have a cash value only in respect of subsequent sales, and not the present one. For instance, if a promotional voucher is offered to customers for reward points in exchange for buying a particular alcoholic product, the value of the points shall not be taken into account when calculating whether the permitted price has been charged.

Staff discount

Companies can offer staff discount, as long as the price after all discounts are applied is above the permitted price.

Online internet sales

The ban will apply to all sales of alcohol that take place (i.e. the alcohol is despatched) within England and Wales.

As detailed above, businesses will need to ensure that the online price of all alcohol products are sold above the duty plus VAT permitted prices.

Section 2: Exemptions

The following are exempt from the ban:

- Activities carried on at or from one of the locations described in section 173 of the Licensing Act 2003
- Alcohol offered as a prize in an incidental non-commercial lottery under section 175 of the Licensing Act 2003
- Low strength beer and other drinks of 1.2% ABV or less

Activities carried on at or from one of the locations described in section 173 of the Licensing Act 2003

Section 173 of the Licensing Act 2003 states that:

(1) An activity is not a licensable activity if it is carried on— .

- (a) aboard an aircraft, hovercraft or railway vehicle engaged on a journey,
- (b) aboard a vessel engaged on an international journey,
- (c) at an approved wharf at a designated port or hoverport,
- (d) at an examination station at a designated airport,
- (e) at a royal palace,
- (f) at premises which, at the time when the activity is carried on, are permanently or temporarily occupied for the purposes of the armed forces of the Crown,
- (g) at premises in respect of which a certificate issued under section 174 (exemption for national security) has effect, or
- (h) at such other place as may be prescribed.

This would include sales at airside bars and shops at international airports and seaside at international ferry terminals.

Therefore, a ban on below cost sales will not apply to any alcoholic products sold at these locations.

Alcohol offered as a prize in an incidental non-commercial lottery under section 175 of the Licensing Act 2003

The supply of alcohol in sealed containers as a prize is exempt from the condition under existing provision about incidental non-commercial lotteries in section 175 of the Licensing Act 2003 (an incidental non-commercial lottery is defined in Part 1 of Schedule 11 to the Gambling Act 2005).

This will therefore ensure that free alcohol (in sealed containers) can continue to be awarded as prizes in competitions and raffles in, for instance, community charity events, without being subject to a ban on below cost sales.

Low strength drinks of 1.2% ABV or less

There is currently no duty paid on alcoholic drinks of 1.2% ABV or less. Therefore, any drink that has a strength of 1.2% ABV or less will be exempt from the condition.

Under section 191(1)(a) of the Licensing Act 2003, the definition of alcohol does not include alcohol which is of a strength not exceeding 0.5% at the time of the sale or supply in question.

Section 3: Enforcement

Responsibility for enforcement

The ban will be enforced by local authorities including licensing authorities, Trading Standards and the police.

It is recommended that enforcement officers only check the prices of heavily discounted alcohol products as these products are most likely to pose a risk of breaching the new mandatory condition. We do not expect enforcement officers to check the price of all alcohol products on the premises unless they feel it is appropriate to do so.

Where necessary, enforcement officers may request a copy of the premises pricing lists and take away for analysis to compare against the duty plus VAT permitted prices. This will ensure that enforcement officers do not spend a substantial amount of time calculating the permitted prices of products on the premises where conditions may be challenging.

Breach of the ban under the Mandatory Code of Practice

Businesses are required by law to comply with the licensing conditions of the Mandatory Code.

Failure to comply with the permitted price condition may be an offence under section 136 of the Licensing Act 2003. This may also result in a review of the licence, or the service on the premises of a closure notice under section 19 of the Criminal Justice and Police Act 2001.

Annex A

Alcohol duty rates (2013)

Alcohol type	Rate from 25/03/2013
Rate £ per litre of pure alcohol	
Spirits	28.22
Spirits-based: Ready-to-drinks	28.22
Wine and made-wine: Exceeding 22% ABV	28.22
Rate £ per hectolitre per cent of alcohol in the beer	
Beer - General Beer Duty	19.12
Beer - High Strength: Exceeding 7.5%ABV - in addition to the General Beer Duty	5.09
Beer - Lower Strength: Exceeding 1.2% - not exceeding 2.8% ABV	9.17
Rate £ per hectolitre of product	
Still cider and perry: Exceeding 1.2% - not exceeding 7.5% ABV.	39.66
Still cider and perry: Exceeding 7.5% - less than 8.5% ABV.	59.52
Sparkling cider and perry: Exceeding 1.2% - not exceeding 5.5% ABV.	39.66
Sparkling cider and perry: Exceeding 5.5% - less than 8.5% ABV.	258.23
Wine and made-wine: Exceeding 1.2% - not exceeding 4% ABV	82.18
Wine and made-wine: Exceeding 4% - not exceeding 5.5% ABV.	113.01
Still wine and made-wine: Exceeding 5.5% - not exceeding 15% ABV.	266.72
Wine and made-wine: Exceeding 15% - not exceeding 22% ABV.	355.59
Sparkling wine and made-wine: Exceeding 5.5% - less than 8.5% ABV.	258.23
Sparkling wine and made-wine: 8.5% and above - not exceeding 15% ABV	341.63

Annex B

Duty plus VAT permitted prices (2013)

Based on the 2013 duty rates, examples of an approximate permitted price after a ban on sales below duty plus VAT would be as follows:

Product	Size	ABV (%)	Permitted price
Beer/Lager	275ml	5.0	32p
	300ml	2.0	7p
	300ml	5.0	35p
	330ml	4.5	35p
		5.0	38p
		6.0	46p
	440ml	4.0	41p
		4.5	46p
		5.0	51p
		9.0	£1.16
	500ml	4.0	46p
		4.5	52p
		5.0	58p
	568ml	4.0	53p
		4.5	59p
		5.0	66p
		8.5	£1.41
Sparkling cider and perry	330ml	4.5	16p
	440ml	5.0	21p
	568ml	4.5	28p
	750ml	7.5	£2.33
	2 litre	7.5	£6.20

Still cider and perry	568ml	4.5	28p
		7.0	28p
		8.0	41p
Wine and made-wine	750ml	4.0	74p
		5.5	£1.02
Still wine and made-wine	750ml	11.5	£2.41
		20	£3.21
Sparkling wine and made-wine	750ml	8.0	£2.33
		11.5	£3.08
Spirits	70cl	17	£4.03
		23	£5.46
		37.5	£8.89
		40	£9.49
	1 litre	17	£5.76
		23	£7.79
		37.5	£12.70
		40	£13.55
Spirit-based ready-to-drinks	250ml	6.4	55p
	275ml	4.0	38p
		4.5	42p
	330ml	6.0	68p
	700ml	4.0	95p

Annex C

Duty plus VAT permitted price calculator (2013)

Beer	
Insert volume (in ml) i.e. 440ml can - insert 440	Insert abv (in %) i.e. 4.4% abv - insert '4.4'
Duty + VAT floor price: £0.00	< this is a result. Do not enter a value.
High Strength Beer (exceeding 7.5% abv)	
Insert volume (in ml) i.e. 440ml can - insert 440	Insert abv (in %) i.e. 4.4% abv - insert '4.4'
Duty + VAT floor price: £0.00	< this is a result. Do not enter a value.
Low Strength Beer (exceeding 1.2% abv, not exceeding 2.8% abv)	
Insert volume (in ml) i.e. 440ml can - insert 440	Insert abv (in %) i.e. 4.4% abv - insert '4.4'
Duty + VAT floor price: £0.00	< this is a result. Do not enter a value.
Still cider and perry	
Insert volume (in ml) i.e. 1l bottle - insert 1000	Insert abv (in %) i.e. 5.5% abv - insert '5.5'
Duty + VAT floor price: £0.00	< this is a result. Do not enter a value.
Sparkling cider and perry	
Insert volume (in ml) i.e. 1l bottle - insert 1000	Insert abv (in %) i.e. 5.5% abv - insert '5.5'
Duty + VAT floor price: £0.00	< this is a result. Do not enter a value.
Wine and made-wine	
Insert volume (in ml) i.e. 70cl bottle - insert 700	Insert abv (in %) i.e. 13.5% abv - insert '13.5'
Duty + VAT floor price: £0.00	< this is a result. Do not enter a value.
Sparkling wine and made-wine	
Insert volume (in ml) i.e. 70cl bottle - insert 700	Insert abv (in %) i.e. 13.5% abv - insert '13.5'
Duty + VAT floor price: £0.00	< this is a result. Do not enter a value.
Spirits	
Insert volume (in ml) i.e. 70cl bottle - insert 700	Insert abv (in %) i.e. 37.5% abv - insert '37.5'
Duty + VAT floor price: £0.00	< this is a result. Do not enter a value.

Annex D

Implementation checklist

The following steps are advised in order to ensure that businesses are selling their alcohol products above the permitted prices for duty plus VAT.

Calculate the duty plus VAT permitted price of an alcohol product



Amend the price (if required) on Central Pricing systems to ensure that the correct price is associated with the barcode on the product



Amend the price on price tags/and or pricing displays on shop shelves



Amend the price on menus



Amend the price on promotional posters, flyers and other materials



Amend the price on websites

Annex E

Frequently asked questions

When will the ban come into effect?

The condition providing for a ban on below cost sales would “go live” when the order is brought into force. This is expected to be 6 April 2014.

On and after this date, the mandatory condition would apply to licensed premises and they would be required to comply with it.

Calculation of prices and updating

What if duty is paid on the alcohol at one rate, but then the duty that applies at the point of sale is different (e.g. following a change in duty at the Budget)?

The duty that applies at the time that the sale is made is the duty to be used in the calculation of the permitted price.

How will prices be rounded? For example, if the duty plus VAT on a can of beer is 49.3p, would shops be able to charge at 49p, rounding down, even if this is below the permitted price?

Consistent with the provision in the Alcoholic Liquor Duties Act 1979, prices should be rounded up to the nearest penny.

How will retailers know which products attract which rate of duty (for instance, products such as alcoholic ginger beer)?

HMRC produces notices which define the products which are included within the duty categories. If a retailer is in doubt about the category of duty rate payable for a particular product, they should use the higher of the possible permitted prices. For instance, if unsure if a product is a cider or a made-wine, prices for both categories should be calculated:

A 500ml bottle of 4.5% ABV product

Cider = $39.66 \times 0.5 \times 1.2$

= 23.796

= 24p permitted price

Made-wine = $113.01 \times 0.5 \times 1.2$

= 67.806

= 68p permitted price

In this example, the permitted price for the product would be 68p.

What about small brewers that pay reduced duty?

Where retailers sell alcohol which is produced by breweries subject to reduced rates of duty under the Small Breweries' Relief scheme, the permitted price for that alcohol may reflect the reduced duty rate. However, retailers should be able to demonstrate that they have taken reasonable steps to satisfy themselves that the reduced rate of duty applies, and where there is doubt, retailers should consider applying the higher duty rate to determine the permitted price.

How will this affect retailers' obligations under the Grocery Suppliers' Code of Practice (GSCOP)?

The price agreed between the supplier and retailer for products is outside the Code, as is the price the retailers charge consumers. However, if the retailer believes that they need to vary a supply agreement to comply with new legislation, section 3(2)(a) of part 3 of Code allows retailers to vary supply agreements retroactively to allow for circumstances outside their control.

To comply with section 3(3) of part 3 of the Code, the retailer must give the supplier reasonable notice of any variation. A rise in duty rates may be a situation to which this part of the Code could apply.

Application and enforcement

How will this be applied and how will it be enforced?

As a mandatory condition, the measure is capable of being enforced in the same way as any other condition in a licence.

This provides that a 'relevant person' shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price. The relevant person is defined as the premises licence holder, designated premises supervisor (where there is one in relation to the licence) or personal licence holder (there is also provision specifically in respect of clubs).

The prohibition on sales below the prescribed permitted price is a condition. As such, the provisions in the Licensing Act 2003 which apply to conditions (e.g. sections 136 and 139) also apply to this condition. It is an offence by a person to carry on or attempt to carry on a licensable activity on or from any premises otherwise than under or in accordance with an authorisation (the reference to authorisation includes a condition).

However, it is a defence if the person's act was due to a mistake, or to reliance on information given to him, or to an act or omission by another person, or to some other cause beyond his control, and he took all reasonable precautions and exercised all due diligence to avoid committing the offence.

What are the penalties for a breach?

Non-compliance with the condition is likely to mean that the person who made the sale would commit an offence under section 136 of the Licensing Act 2003.

This carries a penalty (on conviction) of up to 6 months' imprisonment and/or a £20,000 fine. It may also result in the licence being reviewed (on the basis of the crime prevention objective).

What if retailers do not have an up to date product price list that enforcement officers can take away from the shop floor?

The production of a price list on request is optional, as enforcement officers can check prices while on the shop floor.

What if the price list that has been produced does not take all promotions into account?

Enforcement officers should be made aware of any known discrepancies

Will the enforcement officer come back at a later time to check prices if some on the list that they have taken away are found to be below permitted price?

This will be for the enforcement authority to decide.

Will enforcement be proactive or reactive?

This is for individual authorities to decide.

Saving schemes and other promotions

How does this deal with the issues of money off vouchers?

The retailer would be unable to sell alcohol below the permitted price on the basis of any discount arising by virtue of a voucher.

Consumers may still be able to benefit from a discount voucher or other promotion if either the price payable for the alcohol remains above the permitted price after the discount is applied or if they purchase non-alcoholic products with the alcohol (as the prohibition doesn't apply to those products).

When alcohol is only part of a basket of goods and a discount or voucher is applied, how should that discount be considered when calculating the permitted price?

The sale would not breach the condition provided that the aggregate price paid is not less than the permitted price of the alcohol comprised in the sale.

In relation to a sale of two or more alcoholic products, this is the aggregate of the permitted price for each alcoholic product comprised in the sale.

What if a supplier voucher takes a price below the permitted price?

Retailers should be able to show that they have taken all reasonable steps to ensure that discounts applied by supplier vouchers do not take the price of a product below the permitted price.

What about loyalty schemes where customers can collect vouchers as a reward for continued custom over a period of time?

Where the effect of the scheme is to give a person something which in fact has a cash value in a sale of alcohol, its value is taken into account in determining whether its value means that the alcohol was sold below the permitted price.

Can retailers still offer staff discount?

Yes, as long as the price after all discounts are applied is above the permitted price.

Do free drinks offered as compensation (e.g. for a delayed meal) count as sales?

Free drinks offered on ad hoc or impromptu basis, for example as compensation for poor service, do not count as sales because the customer has not paid anything for the drink. This is different to, for instance, 'meal deals' where the drink is offered as part of a package of goods.

Where a receipt shows a drink at zero pence, does this count as a sale?

This does not count as a sale as it has no monetary value.

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