



BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING COMMITTEE

MONDAY 9TH NOVEMBER 2015
AT 6.00 P.M.

COMMITTEE ROOM, THE COUNCIL HOUSE, BURCOT LANE, BROMSGROVE

MEMBERS: Councillors B. T. Cooper (Chairman), J. M. L. A. Griffiths (Vice-Chairman), M. T. Buxton, P. Lammas, K.J. May, C. M. McDonald, S. R. Peters, S. P. Shannon, P.L. Thomas, L. J. Turner and S. A. Webb

AGENDA

1. To receive apologies for absence and notification of substitutes
2. Declarations of Interest

To invite Councillors to declare any Disclosable Pecuniary Interests or Other Disclosable Interests they may have in items on the agenda, and to confirm the nature of those interests.
3. To confirm the accuracy of the minutes of the meeting of the Licensing Committee held on 14th September 2015 (Pages 1 - 6)
4. Verbal Update from the Licensing and Support Manager, Worcestershire Regulatory Services, Child Sexual Exploitation awareness raising
5. Gambling Act 2005 - Review of Statement of Principles - Consultation Results (Pages 7 - 30)
6. Hackney Carriage and Private Hire Licensing Policies - Consultation Results (Pages 31 - 58)
7. Uber Information Report (Pages 59 - 62)
8. Licensing Committee Work Programme 2015/2016 (Pages 63 - 64)

9. To consider any other business, details of which have been notified to the Head of Legal, Equalities and Democratic Services prior to the commencement of the meeting and which the Chairman, by reason of special circumstances, considers to be of so urgent a nature that it cannot wait until the next meeting

K. DICKS
Chief Executive

The Council House
Burcot Lane
BROMSGROVE
Worcestershire
B60 1AA

27th October 2015

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BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING COMMITTEE

MONDAY 14TH SEPTEMBER 2015 AT 6.00 P.M.

PRESENT: Councillors B. T. Cooper (Chairman), J. M. L. A. Griffiths (Vice-Chairman), M. T. Buxton, K.J. May, C. M. McDonald, S. R. Peters, S. P. Shannon, P.L. Thomas, L. J. Turner and S. A. Webb

Officers: Mrs. V. Brown, Mr. D. Etheridge, Mrs. A. May and Mrs. P. Ross

10/15 **APOLOGIES**

An apology for absence was received from Councillor P. Lammas.

11/15 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

12/15 **MINUTES**

The minutes of the meeting of the Licensing Committee held on 8th June 2015 were submitted.

RESOLVED that the minutes of the meeting be approved as a correct record.

13/15 **DRAFT SEX ESTABLISHMENT LICENSING POLICY - APPROVAL FOR CONSULTATION**

The Sub-Committee considered a report to approve the draft Sex Establishment Licensing Policy, for the purpose of consultation with relevant stakeholders and the general public, as detailed at Appendix 1 to the report.

The Senior Licensing Practitioner, Worcestershire Regulatory Service (WRS) introduced the report and in doing so, informed the Committee that despite having adopted controls over sex establishments, the Council did not currently have an adopted policy on the licensing of sex establishments under the Local Government (Miscellaneous Provisions) Act 1982.

The Senior Licensing Practitioner, WRS, informed Members that he had met with the Council's Legal Advisor with regard to the draft policy and had agreed some minor changes to the policy, which would be incorporated into the policy, prior to consultation, should Members be in agreement. The Senior Licensing Practitioner drew Members' attention to the following minor changes:-

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- Part 3, paragraph 3.5.3, remove the word 'relevant'.
- Part 5, paragraph 5.3 remove the reference to Annex F.
- Part 5, paragraph 5.4 to be deleted.
- Annex C, remove the reference to the setting of fees in relation to sex establishment licences.

Members agreed that the minor changes be incorporated and that the draft policy be amended to reflect the minor changes, prior to consultation with relevant stakeholders and the general public.

The Senior Licensing Practitioner, WRS, in response to questions from Members, drew Members' attention to page 27 in the report. The information detailed would enable Members to understand, as defined in Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, the definition of a 'sexual entertainment venue' and that of a 'sex shop'.

The Senior Licensing Practitioner, WRS, further responded to Members with regard to premises holding occasional entertainment events, for example a "ladies night" or a "gentlemen's night", and informed the Committee that such events could be held at premises, that were not sexual entertainment venues, under a Temporary Event Notice (TEN), as per the terms as detailed on page 28 in the report.

Members asked if applicants would be required to submit a Disclosure and Barring Service Enhanced Certificate (DBS) with their application. In response the Senior Licensing Practitioner, WRS, informed Members that there was no formal requirement for applicants to submit a DBS Enhanced Certificate with their application, however, there would be a rigorous checking process, whereby WRS would notify the relevant bodies, as detailed in paragraph 2.4.1 in the report; who would be asked to comment on or object to any applications submitted, within a period of twenty eight days from the date of the application. The report also detailed the criterion for mandatory refusal of applications and discretionary refusal of applications.

Councillor L. J. Turner noted that the draft policy did not detail any set fees and questioned this with the Senior Licensing Practitioner, WRS. Members were informed that fees varied substantially from one authority to another. Following consultation on the draft policy, the fees would be determined and set. The proposed fees and charges, along with the responses received from the consultation, would be presented to a future meeting of the Licensing Committee.

Councillor J. M. L. A. Griffiths sought reassurance with regard to the management of premises and the safeguarding of children. The Senior Licensing Practitioner, WRS, informed the Committee that no person under the age of 18 would be admitted to any such premises or employed in the business of a Sex Establishment. He would advise Members that for reassurance in respect of the safeguarding of children; Members could include within the draft policy at Annex D and Annex E, Standard Conditions, the following additional condition:-

- The Licensee must operate an age verification policy (Challenge 25 or similar) to ensure no person under the age of 18 was admitted to the Premises.

Members were in full agreement that the additional condition be included within the draft policy at Annex D and Annex E, Standard Conditions; and that the amended draft policy be used for the purpose of consultation with relevant stakeholders and the general public.

RESOLVED:

- (a) that the suggested minor changes and additional condition, as detailed in the preamble above, be incorporated into the draft Sex Establishment Policy;
- (b) that the amended draft Sex Establishment Policy be approved for the purpose of consultation with relevant stakeholders and the general public; and
- (c) that following consultation the responses received and the determined fees be presented to a future meeting of the Licensing Committee.

14/15

DEREGULATION ACT 2015 - POLICY ON DURATION OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCES AND PRIVATE HIRE OPERATOR LICENCES

Following on from the meeting held on 8th June 2015, whereby Members received a report that provided an update on the Deregulation Act 2015 and the licensing implications with regard to taxi and private hire licensing. The Committee was asked to consider a further report, as a result of the Deregulation Act 2015. The report highlighted the changes to the standard duration of hackney carriage and private hire driver licences and private hire operator licences. The report also detailed two draft policies for Member approval; policy on the duration of hackney carriage and private hire driver licences and policy on the duration of private hire operator licences.

The Senior Licensing Practitioner, Worcestershire Regulatory Services (WRS) introduced the report and in doing so informed the Committee that the Deregulation Act 2015 received Royal Assent on 26th March 2015. Section 10 of this Act related to the Council's hackney carriage and private hire licensing functions and was due to come into force on 1st October 2015. The effect of this change would be that standard (default) duration of a hackney carriage or private hire drivers' licence issued by the Council would be three years and the standard (default) duration of a private hire operators' licence would be five years. Both licence types were currently issued by the Council for a period of one year.

Members were further informed that if an applicant requested to be granted a licence for one year, the Council would automatically deem it appropriate in the circumstances to grant a licence for this period, in line with the request of the applicant. There were many reasons why an applicant may want to remain on a one year licence. Inevitably the cost of applying for a three or five year licence would be higher, as the Council's enforcement and compliance

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costs for the three year period would have to be covered by the licence fee. Applicants may therefore prefer to avoid having to pay a larger licence fee every three or five years and may prefer to pay a lower fee each year. Also applicants may not want a three year licence as they may not have decided if they intended to remain in the trade for the longer period of three years.

The Senior Licensing Practitioner, WRS, drew Members' attention to the proposed fees:-

- £92.00 - Hackney Carriage and Private Hire Drivers' Licences current annual fee
- £220 - Hackney Carriage and Private Hire Drivers' Licence proposed three year fee
- £290 – Private Hire Operators' Licence current one year fee
- £1,102 – Private Hire Operators Licence proposed five year fee

The Senior Licensing Practitioner highlighted that there was no requirement to advertise the proposed hackney carriage and private hire drivers' licence fee, but the proposed fees to be set for the private hire operators' licence required a public notice to be placed advertising the proposed fees for a period of twenty eight days.

The Council's Legal Advisor advised the Sub-Committee that in light of the information on fees and charges, as provided by the Senior Licensing Practitioner, WRS, she would ask Members to consider an additional recommendation with regard to the proposed private hire operators' licence fees, following the required advertisement being placed.

Following a brief discussion it was

RESOLVED:

- (a) that the draft policies on the duration of hackney carriage and private hire drivers licences and private hire operator licences, as detailed at Appendix 1 to the report, be approved, with effect from 1st October 2015; and
- (b) that, if following advertisement, objections were received to the proposed five year private hire operators' licence fee of £1,102, those objections be brought back to the Licensing Committee to be held on 9th November 2015.

RECOMMENDED:

- (a) that, if following advertisement, no objections were received to the proposed five year private hire operators' licence fee of £1,102, that Cabinet approve the revised fees and charges for inclusion in the fees and charges schedule.

15/15

LICENSING COMMITTEE WORK PROGRAMME 2015/2016

The Committee considered the Work Programme for 2015/2016.

RESOLVED that the Licensing Committee Work Programme be updated to include the items discussed and agreed during the course of the meeting.

16/15

OTHER BUSINESS - SAFEGUARDING CHILDREN

The Chairman informed Members that he had recently attended a meeting, with regard to Safeguarding Children, with the Head of Community Services. The meeting was to look at Worcestershire Regulatory Services participation in Worcestershire's Child Sexual Exploitation Strategy Action Plan, which included raising awareness with licensed premises and hackney carriage and private hire drivers.

Hackney Carriage and Private Hire licenced drivers and Licensed Premises were seen as an integral part of the local working economy, and were often the eyes and ears of the community. So raising awareness within these groups was seen as a vital link within Worcestershire's Child Sexual Exploitation Strategy Action Plan. The Chairman proposed that the Head of Community Services be invited to the next meeting of the Licensing Committee to provide information on the role of Licensing Committee Members in respect of Worcestershire's Child Sexual Exploitation Strategy Action Plan; and to provide Members with detailed information on the WRS awareness raising campaign.

RESOLVED that the Head of Community Services be invited to attend the next meeting of the Licensing Committee to provide Members with information as detailed in the preamble above.

The meeting closed at 6.34 p.m.

Chairman

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LICENSING COMMITTEE

9th November 2015

GAMBLING ACT 2005 – REVIEW OF STATEMENT OF PRINCIPLES

Relevant Portfolio Holder	Councillor Peter Whittaker
Portfolio Holder Consulted	Yes
Relevant Head of Service	Simon Wilkes - Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

The Council's current Statement of Principles under the Gambling Act 2005 took effect on 31st January 2013. In accordance with the provisions of the Act, the Council is required to prepare and publish a Statement of Principles every three years. Therefore a new Statement of Principles must be published by 31st January 2016.

As part of this process, consultation on a draft Statement of Principles for the three year period beginning on 31st January 2016 has been undertaken and the Licensing Committee are asked to consider the responses and recommend to Council that the draft revised Statement of Principles be approved and published.

2. RECOMMENDATIONS

Members are asked to RESOLVE;

To recommend to Council that the revised draft Statement of Principles at Appendix 2 be approved and published.

3. KEY ISSUES

Financial Implications

- 3.1 The costs involved in carrying out the consultation were met from existing budgets held by Worcestershire Regulatory Services.

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Legal Implications

- 3.2 Section 349 of the Gambling Act 2005 requires that the licensing authority produce, consult on and publish a Statement of the Principles that it proposes to apply when exercising its functions under the Act.
- 3.3 The Act also requires that the Statement of Principles should be kept under review and must be re-published at least every three years.
- 3.4 When revising its Statement of Principles, the Council is required to consult with:-
- the Chief Officer of Police for the Authority's area;
 - one or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area; and
 - one or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under this Act.

Service / Operational Implications

- 3.5 Bromsgrove District Council is a licensing authority in accordance with the provision of the Gambling Act 2005.
- 3.6 Each licensing authority is required before each successive three year period, to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during that period. This document is commonly referred to as the authority's Statement of Principles.
- 3.7 The Council's current Statement of Principles took effect on 31st January 2013 and therefore a new Statement of Principles must now be prepared and published ready to take effect on 31st January 2016.
- 3.8 There have been no significant changes to the provisions of the Gambling Act 2005 since the last Statement of Principles took effect.
- 3.9 On 8th June 2015 the Licensing Committee approved a draft revised Statement of Principles for the purpose of consultation with relevant parties.

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- 3.10 Consultation on the revised draft Statement of Principles took place between 19th June 2015 and 31st August 2015 with all relevant parties including:
- The Chief Officer of West Mercia Police
 - The Gambling Commission
 - All other responsible authorities identified under the Act
 - Relevant Trade Associations
 - Organisations working with people who are problem gamblers
 - Parish Councils
 - The general public
- 3.11 The consultation was also be made available for comment via the Council's website and publicised via social media and also through the local press.
- 3.12 During the consultation period two responses were received, one from Wythall Parish Council and one from the Gambling Commission.
- 3.13 Wythall Parish Council confirmed that they did not have any adverse comments to make on the draft revised Statement of Principles.
- 3.14 The response from the Gambling Commission can be seen at Appendix 1. The suggestions from the Commission have led to some changes being incorporated into the draft revised Statement of Principles at Appendix 2.
- 3.15 The first of these is the inclusion of a new section that sets out the Council's intention to develop a "Local Area Profile" in partnership with the other licensing authorities in Worcestershire and other relevant stakeholders.
- 3.16 Another new section has been included in the draft statement in order to provide guidance to operators on the matters the Council believes they should consider when compiling their own local risk assessments, which will be a requirement from April 2016.
- 3.17 Finally additional paragraphs have been added to provide more details in relation to the way the Council will approach its enforcement and compliance roles under the Gambling Act 2005.
- 3.18 Members of the Committee are asked to consider the responses and recommend to Council that the draft revised Statement of Principles at Appendix 2 be approved and published.

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4. RISK MANAGEMENT

- 4.1 Failing to prepare and publish a new Statement of Principles by 31st January 2016 would leave the Council in a position where it was failing to comply with its duties as a licensing authority under the provisions of the Gambling Act 2005.

5. APPENDICES

Appendix 1 – Response from Gambling Commission
Appendix 2 – Revised Draft Statement of Principles

AUTHOR OF REPORT

Name: Dave Etheridge – Senior Practitioner (Licensing)
Worcestershire Regulatory Services

E Mail: dave.etheridge@worcsregservices.gov.uk

Tel: (01905) 822799

Agenda Item 5

From: Andrew Wright
Sent: 29 July 2015 15:46
To: Dave Etheridge; Niall McMenamin
Subject: Statement of Principles Consultation

Hello Both

Following on from our discussion with regards to the revised Statement of Principles 2016-2019 and as part of your consultation I would like to highlight four areas for consideration and in addition to the requirements set out in the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006

- 1) Your approach to compliance and enforcement, for example what the inspection regime looks like and how you will manage illegal gambling activity.
- 2) Your expectations of operators, this could be in general terms or expectations of a sub-sector, for example sharing information with you in relation to results of test purchase scheme carried out or participation in social responsibility schemes.
- 3) As Operators are required to develop their own premises specific risk assessments by 6 April 2016 authorities should provide a clear indication of what factors, as a non-exclusive list they expect to be taken into account.
- 4) Look towards a development of a local area profile to understand how gambling is provided in a particular area and what the risks might be.

In conjunction with this I would highlight the Licensing Authority Bulletins included in this email which may assist in providing further information.

Many Thanks

Andrew Wright
Senior Officer - Compliance
Gambling Commission
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B2 4BP

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Bromsgrove
District Council

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REVISED STATEMENT OF PRINCIPLES

GAMBLING ACT 2005



2016 - 2019

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Statement of Principles – Gambling Act 2005

1.0 Introduction

- 1.1 Bromsgrove District Council is situated in the County of Worcestershire, which contains six District Councils in total. The Council area has a population of approximately 93,600 and in terms of area it covers approximately 84 square miles. The Council area is mainly rural in character (90% of the area is classed as Green Belt) with two central urban areas of Bromsgrove Town and Rubery. Whilst it is only 14 miles from central Birmingham, the Clent and Lickey Hills provide an important dividing line between the industrial Midlands and the rural landscape of North Worcestershire.
- 1.2 Bromsgrove District Council's overall vision is "working together to build a district where people are proud to live and work, through community leadership and excellent services." This statement accords with that vision in seeking to promote the licensing objectives set out in the Act, which are central to the regulatory regime created by the Act. These are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
 - Ensuring that gambling is conducted in a fair and open way, and
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 1.3 We have produced this statement as required by Section 349 of the Gambling Act 2005 (referred to in this statement as "the Act") and having had regard to the Gambling Commission's formal guidance issued under Section 25 of the Act, the licensing objectives and to the views of those that we have consulted. We consulted widely upon this statement before finalising and publishing. The list of those persons and organisations consulted is appended. The consultation took place between July and September 2015 in line with current published Government consultation principles. Should you have any comments as regards this policy statement please send them via email or letter to: wrsenquiries@worcsregservices.gov.uk
- 1.4 This statement must be published at least every three years. The statement may also be reviewed from 'time to time' and any amended parts re-consulted upon.
- 1.5 We intend that this document should provide information and guidance on the general approach that we will take to licensing. A series of advice sheets with more specific guidance is available from our web site or will be sent on request; advice tailored to individuals is available by phone or to personal callers.

- 1.6 Nothing in this policy takes away the right of any person to make an application under the Act and to have that application considered on its merits; nor does it undermine the right of any person to object to an application or to seek a review of a licence where the law provides that they may do so. Applications will be considered in line with our statement of general principles, below.

2.0 Gambling Act 2005

- 2.1 This policy reflects and aims to support our strategic purposes, as set out in the Council Plan.
- 2.2 The Act provides for gambling to be authorised in a number of different ways. Our main functions are to:
- licence premises for gambling activities, including the issue of provisional statements,
 - regulate and grant permits for gambling and gaming machines in clubs, including commercial clubs,
 - regulate gaming and gaming machines in alcohol licensed premises,
 - grant permits to family entertainment centres for the use of certain lower stake gaming machines,
 - grant permits for prize gaming,
 - receive and endorse notices given for the temporary use notices,
 - receive occasional use notices for betting at tracks,
 - register small societies lotteries,
 - Maintain public registers, and
 - Provide information to the Gambling Commission on issued licences.
- 2.3 The Gambling Commission regulates remote gambling and issues personal and operating licences for premises. The “National Lottery” is also regulated by the Gambling Commission. Spread betting is regulated by the Financial Conduct Authority.

3.0 Local Area Profile

- 3.1 Alongside its Statement of Principles, the Licensing Authority would like to work with the other Licensing Authorities in Worcestershire and other partners during the lifetime of this Statement to develop a “Local Area Profile” for the County as a means of mapping out local areas of concern, which can be reviewed and updated to reflect changes to the local landscape.
- 3.2 This Local Area Profile is likely to take account of a wide range of factors, data and information held by the Licensing Authority and its partners. An important element of preparing the Local Area Profile will be proactive engagement with responsible authorities as well as other organisations in the area that can give input to ‘map’ local risks in the area.

- 3.3 These are likely to include public health, mental health, housing, education, community welfare groups and safety partnerships, and organisations such as Gamcare or equivalent local organisations.
- 3.4 The aim of the Local Area Profile will be to increase awareness of local risks and improved information sharing, to facilitate constructive engagement with licensees and a more coordinated response to local risks. The Local Area Profile will also help to inform specific risks that operators will need to address in their own risk assessments, which will form a part of any new licence application, or an application to vary a licence from April 2016.
- 3.5 The creation of a Local Area Profile, however, is dependent on information and knowledge of the local area gathered by partner agencies and other relevant organisations who have the expertise and knowledge of the impact gambling has in the local area. Where evidence is submitted to the Licensing Authority which identifies the areas of concern it is intended to produce a Local Area Profile separate to this Policy.
- 3.6 Once a Local Area Profile has been developed, it will be published on the Licensing Authority's website and updated on a regular basis to reflect changes to the local environment.

4.0 Authorised Activities

- 4.1 'Gambling' is defined in the Act as gaming, betting, or taking part in a lottery.
- gaming means playing a game of chance for a prize,
 - betting means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not, and
 - a lottery is an arrangement where persons are required to pay in order to take part in an arrangement whereby one or more prizes are allocated by a process which relies wholly on chance.

5.0 General Statement of Principles

- 5.1 In carrying out our licensing functions in accordance with the Act, particularly with regard to premises licences, we will generally aim to permit the use of premises for gambling as long as it is considered to be :-
- in accordance with any relevant Codes of Practice issued by the Gambling Commission
 - in accordance with any relevant Guidance issued by the Gambling Commission
 - in accordance with this Statement of Principles, and
 - reasonably consistent with the licensing objectives.
- 5.2 We will not seek to use the Act to resolve matters that are better dealt with by other legislation. Licensing is not the primary mechanism for general control of nuisance and the antisocial behaviour of people once they are away from licensed premises.

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- 5.3 We will ensure that in dealing with applications under the Act we follow the required procedures, and only take into account issues that are relevant. Specifically we will not have regard to “demand” when considering applications for gambling premises; nor will we consider the suitability of applicants for premises licences (which is a matter for the Gambling Commission). We will not reject an application on moral grounds. If we do decide to reject an application, we will make known our reasons for doing so.
- 5.4 Our current Council Constitution (including the scheme of delegation) details the way that we will discharge our functions under this Act. Details are available from the Licensing Department.
- 5.5 Where an application is for a new premises licence, the responsible authorities may visit to check that gambling facilities meet all necessary legal requirements.
- 5.6 Where there are no representations (objections), licences and permissions will be granted subject only to any appropriate mandatory conditions (Section 167 of the Act) and any conditions having at least the effect of appropriate default conditions made under Section 168.
- 5.7 If there are objections that can't be resolved informally, or we intend to impose extra conditions, we will hold a public hearing at which our licensing sub-committee will hear evidence and make a decision in accordance with the Act.
- 5.8 This statement is not intended to override the right of any person to make an application under the Act, and to have that application considered on its merits. Equally, this Statement of Principles is not intended to undermine the right of any person to make representations about an application or to seek a review of a licence where provision has been made for them to do so.

6.0 Preventing gambling from being a source of crime and disorder

- 6.1 The Gambling Commission takes the leading role in preventing gambling from being a source of crime, and maintains rigorous licensing procedures aiming to prevent criminals from providing facilities for gambling. Applicants need an operating licence from the Commission before we will issue a licence to use premises for gambling.
- 6.2 In view that we will not issue a premises licence to someone who does not hold an operator's licence, we are not generally concerned with the suitability of an applicant. Where concerns about a person's suitability arise we will bring those concerns to the attention of the Commission.
- 6.3 If an application for a licence or permit is received in relation to premises which are in an area noted for particular problems with organised crime, we will, in consultation with the Police and other relevant authorities, consider whether specific controls need to be applied to prevent those premises from being a source of crime. This could include a requirement for Security Industry Authority (SIA) registered door supervisors.

6.4 Disorder will only be considered under this Act if it amounts to activity which is more serious and disruptive than mere nuisance, and where it can be shown that gambling is the source of that disorder. A disturbance might be serious enough to constitute disorder if police assistance was required to deal with it; we will then consider how threatening the behaviour was to those who could see or hear it, and whether those people live sufficiently close to be affected or have business interests that might be affected.

6.5 “Disorder” is generally a matter for the Police; we will not use this Act to deal with general nuisance issues, for example, parking problems, which can be better dealt with using alternative powers.

6.6 When making decisions relating to disorder, we will give due weight to comments made by the police.

7.0 Ensuring gambling is conducted in a fair and open way

7.1 The Gambling Commission does not expect local authorities to become concerned with ensuring that gambling is conducted in a fair and open way. The Commission, through the operating and personal licensing regime, will regulate the management of the gambling business and the suitability and actions of an individual.

7.2 Because betting track operators do not need an operating licence from the Commission we may, in certain circumstances, require conditions of licence relating to the suitability of the environment in which betting takes place.

8.0 Protecting children and vulnerable people from being harmed or exploited by gambling

8.1 The intention of the Act is that children and young persons should not be allowed to gamble, and should be prevented from entering those gambling premises which are ‘adult-only’ environments.

8.2 Codes of Practice, including advice about access by children and young persons may be published by the Gambling Commission for specific kinds of premises. Applicants will be expected to heed this advice where applicable.

8.3 We expect steps to be taken to prevent children from taking part in, or being in close proximity to, gambling. This may include restrictions on advertising to ensure that gambling products are not aimed at children, nor advertised in such a way that makes them particularly attractive to children.

8.4 When determining a premises licence or permit we will consider whether any additional measures are necessary to protect children, such as the supervision of entrances, the segregation of gambling from areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises like pubs, clubs and betting tracks.

- 8.5 In seeking to protect vulnerable people we will include people who gamble more than they want to, people who gamble beyond their means, and people who may not be able to make informed or balanced decisions about gambling, perhaps due to a mental impairment, alcohol or drugs.
- 8.6 We will always treat each case on its own individual merits and when considering whether specific measures are required to protect children and other vulnerable people will balance these considerations against the overall principle of aiming to permit the use of premises for gambling.
- 8.7 The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm.

These principles are:

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

In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this authority designates the Worcestershire Safeguarding Children Board for this purpose.

9.0 Local Risk Assessments

- 9.1 From 6 April 2016 it will be a requirement for operators to assess local risks to the licensing objectives taking into account this Council's Policy. The operator must also have policies, procedures and control measures in place to mitigate these risks. Risk assessments must be reviewed whenever there are significant changes in local circumstances, or at the premises, or when applying for a new licence or a variation of a licence. Risks in this context include actual, potential and possible future emerging risks to the licensing objectives.
- 9.2 The Licensing Authority will expect the local risk assessment to consider, for example:
- whether the premise is in an area of deprivation;
 - whether the premise is in an area subject to high levels of crime and/or disorder;
 - whether the premise is near an addiction treatment facility and in general consider the demographics of the area in relation to vulnerable groups;
 - the location of sensitive buildings such as schools, playgrounds, toy shops, leisure centres, libraries and other areas where children are likely to gather; and
 - how vulnerable persons as defined within this Policy are protected.

- 9.3 In compiling their local risk assessment the Licensing Authority shall also expect operators to take into account the general principles as set out in this Policy
- 9.4 Other matters that the risk assessment may include are, for example:
- Staff training, including refresher training, e.g. such as intervention when customers show signs of excessive gambling, in the mandatory licensing conditions, in location of the premises licence; in location of information relating to gambling care providers, etc.;
 - Where installed, details of CCTV coverage and how the system will be monitored;
 - Layout of the premises to ensure staff have unobstructed views of persons using the premises or where this is not possible, evidence of how this can be achieved;
 - The number of staff employed at the premises at any one time taking into account any effects from seasonal trade in the area.
 - Where only one staff member is employed in the case of smaller premises, what the supervisory and monitoring arrangements are when that person is absent from the licensed area or distracted for any other reason;
 - Provision of signage and documents relating to games rules, gambling care providers;
 - What mix of gambling is provided;
 - Consideration of primary gambling activity and location of gaming machines;
- 9.5 Operators are expected to share their risk assessments with the Licensing Authority when applying for a new Premises Licence, applying for a variation to an existing licensed premise or otherwise upon request. These risk assessments must in any event be kept under regular review and updated as necessary.
- 9.6 The information contained within the risk assessment may be used to inform the decision the Licensing Authority makes about whether or not to grant the licence, to grant the licence with special conditions or to refuse the application.
- 9.7 However, in all circumstances each application will be treated on its own merits with the onus on the applicant providing the Licensing Authority with sufficient information to make their determination with the underpinning statutory aim of permitting gambling subject to being reasonably consistent with the licensing objectives.
- 9.8 In its Guidance to Licensing Authorities, the Gambling Commission suggests that Licensing Authorities should adopt a 'Local Area Profile'. The Guidance suggests that a Local Area Profile is a process of gathering and presenting information about a locality and any particular areas of concern within that locality. It underpins and explains the approach that the Licensing Authority will apply when granting licences. By developing a Local Area Profile it is likely to assist operators in identifying specific local risks within the area.

10.0 Premises licences

- 10.1 A premises licence can authorise the provision of facilities at the following:
- casino premises
 - bingo premises
 - betting premises, including betting tracks
 - adult gaming centres
 - family entertainment centres
- 10.2 Premises can be 'any place' but the Act generally prevents more than one premises licence applying to any one place. A single building could be subject to more than one premises licence provided they are for different parts of the building and those parts can be reasonably regarded as being separate 'premises'.
- 10.3 This will allow large, multiple unit premises such as tracks, shopping malls or service stations to obtain discrete premises licences, with appropriate safeguards in place. We will pay particular attention if there are issues about sub-divisions of a single building or plot and mandatory conditions relating to access between premises are observed. We will not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partition, can properly be regarded as different premises. Whether different parts of a building can properly be regarded as being separate premises will depend on the individual circumstances of the case.
- 10.4 A particular requirement might be for entrances and exits from parts of a building covered by one or more licences to be separate and identifiable so that the separation of the premises is not compromised and people are not allowed to 'drift' accidentally into a gambling area. It should normally be possible to access the premises without going through another licensed premises or premises with a permit. We would also expect customers to be able to participate in the activity named on the premises licence.
- 10.5 The Secretary of State appointed an independent Casino Advisory Panel to advise the Government on the areas in which small and/or large casinos may be located. The District of Bromsgrove was not identified as a suitable location for a casino, consequently we are currently prevented from granting a Casino Premises Licence.
- 10.6 The Council has not passed a resolution under section 166(5) of the Gambling Act 2005 to not issue casino premises licences. If such a resolution were considered in the future, the Council would carry out a full public consultation and consider all responses before passing such a resolution.
- 10.7 We will not turn down applications for premises licences where relevant objections can be dealt with through the use of licence conditions.
- 10.8 Other than an application for a betting premises licence for a track, we are not able to issue a premises licence unless the applicant holds the relevant operating licence from the Gambling Commission.

- 10.9 When considering applications for premises licences we will not take into account either the expected 'demand' for facilities or the likelihood of planning permission or building regulation approval being granted, as well as 'moral' objections to gambling. Equally, the grant of a premises licence would not prejudice or prevent any action that may be appropriate under the law relating to planning or building regulations.
- 10.10 We are aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to our decision-making. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated.
- 10.11 We will only issue a premises licence once we are satisfied that the premises is ready to be used for gambling in the reasonably near future. Where we have agreed to grant a licence but substantial building works or alterations are still required we will impose a condition requiring the premises to be inspected on completion of the work and prior to the issue of the licence. Where the construction of a premises is not yet complete, or if they need alteration, or the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made as having a right to occupy the premises is a pre-condition to making a Premises Licence application.
- 10.12 We will apply a two stage consideration process if there is outstanding construction or alteration works at the premises:
- should the premises be permitted to be used for gambling;
 - can appropriate conditions be imposed to cater for the situation that the premises is not yet in the state in which they should be before gambling takes place.
- 10.13 We are entitled to decide whether or not it is appropriate to grant a licence subject to conditions.
- 10.14 Applicants for premises licences are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate.
- 10.15 We will maintain a public register of Premises Licence applications received which may be viewed at the Council Offices during normal office hours which are generally Monday – Friday 9am until 5pm.

11.0 Responsible authorities

- 11.1 Responsible authorities are identified in the legislation, and have to be notified about licence applications so that they can identify any risks. The responsible authorities that we recognise are listed below, contact details for each of the responsible authorities identified are available on our website www.bromsgrove.gov.uk, and will be sent on request.

- The Gambling Commission
- The Chief Officer of Police for the Area
- Fire and Rescue Service

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- Bromsgrove District Council Planning Department
- Bromsgrove District Council Licensing Department (WRS)
- Bromsgrove District Council Environmental Health (WRS)
- Worcestershire Safeguarding Children Board
- HM Revenue and Customs
- Any other bodies identified in Regulation by the Secretary of State,
- For vessels, the Environment Agency, Canal and River Trust, Secretary of State.

11.2 Any concerns expressed by a Responsible Authority cannot be taken into account unless they are relevant to the application itself and the licensing objectives. However, each representation will be considered on its own individual merits.

12.0 Interested Parties

12.1 An interested party is someone who:

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

12.2 We will generally require written evidence that a person/body 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representations is sufficient. Whilst this may not apply to those elected ward members or MP or Parish Councillors, those persons should be aware of the need to represent the whole of the community that they represent and not just the vocal 'minority'.

12.3 In determining whether someone lives sufficiently close to a particular premises so as to be affected, we will take into account, among other things :

- the size of the premises
- the nature of the premises
- the distance of the premises from the person making the representation
- the nature of the complainant
- the potential impact of the premises

12.4 In determining whether a person has a business interest which could be affected the Council will consider, among other things:

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

12.5 If an existing gambling business makes a representation that it is going to be affected by another gambling business starting up in the area, we would not consider this, in the absence of other evidence, as a relevant representation

as it does not relate to the licensing objectives and instead relates to demand or competition.

12.6 We may consider a representation to be either frivolous or vexatious, and reject it. This will generally be a matter of fact given the circumstances of each individual case but, before coming to a decision we will normally consider:

- who is making the representation and whether there is a history of making representations that are not relevant,
- whether it raises an issue relevant to the licensing objectives, or
- whether it raises issues specifically to do with the premises which are the subject of the application.

13.0 Licence conditions

13.1 In particular cases we may find it necessary to impose conditions beyond appropriate mandatory and default conditions. Any such conditions will be relevant to the need to make the building suitable for use as a gambling facility; directly related to the premises and the type of licence applied for; fairly and reasonably related to the scale and type of premises and reasonable in all other respects. We will not have recourse to a pool of standard conditions.

13.2 We will also ensure that where category C or above machines that are on offer in premises to which children are admitted are located in an area of the premises which is separated by a physical barrier to prevent access other than through a designated entrance; the designated area is supervised and observed by staff or the licence holder.

13.3 Examples of conditions which are likely to be attached in certain circumstances include those relating to opening hours, segregation of gambling from non-gambling areas frequented by children, SIA licensed door supervisors, appropriate signage for adult only areas, age limits, or keeping children and young persons away from gaming machines. We will also expect the applicant to offer their own suggestions as to way in which the licensing objectives can be promoted effectively.

13.4 We will not seek to control those matters specified in the Act with conditions:

- which make it impossible to comply with an operating licence condition imposed by the Gambling Commission,
- relating to gaming machine categories or method of operation,
- which specify that membership of a club or other body is required, or
- in relation to stakes, fees, winnings or prizes.

13.5 Duplication with other statutory or regulatory regimes will be avoided as far as possible. The need for conditions will be assessed on the specific merits of each application.

14.0 Gaming Machines

14.1 Gaming machines include all types of gambling activity which can take place on a machine, including betting on 'virtual' events.

- 14.2 The Act itself prescribes the number and category of gaming machines that are permitted in each type of gambling premises.
- 14.3 Subject to the provisions of the Act, gaming machines can be made available in a wide variety of premises, including :
- casinos
 - bingo premises
 - betting premises, (including tracks)
 - adult gaming centres
 - family entertainment centres
 - clubs
 - pubs and other alcohol licensed premises
 - travelling fairs
- 14.4 A machine is not a gaming machine if the winning of a prize is determined purely by the player's skill. However, any element of 'chance' imparted by the action of the machine would bring it within the definition of a gaming machine.
- 14.5 We will encourage permit and premises licence holders to adopt applicable codes of practice which may be introduced by the amusement industry or Gambling Commission, from time to time.

15.0 Temporary Use Notices

- 15.1 These allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. We would object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises. Premises that might be suitable for a temporary use notice would include hotels, conference centres and sporting venues. A temporary use notice may only be granted to a person or company holding a relevant operating licence.
- 15.2 Temporary use notices may only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner. Equal chance gaming is gaming which does not involve playing or staking against a bank and gives equally favourable chances to all participants. Examples of equal chance gaming include games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.

16.0 Occasional Use Notices

- 16.1 We have very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. Whilst tracks are normally thought of as permanent racecourses, this can also include land which has a number of uses for example agricultural land upon which a point-to-point meeting takes place. Land used temporarily as a track can qualify, provided races or sporting events take place or will take place there. The track need not be a permanent fixture.

17.0 Lotteries

- 17.1 All lotteries are unlawful unless they are run in accordance with an operating licence issued by the Gambling Commission - unless they are 'exempt' lotteries as defined by the Act. One of those exemptions is for "small

societies lotteries,” which we will allow, after registration. We will maintain a register of small societies lotteries.

- 17.2 A society will be allowed to register with us if it is ‘non-commercial’, in other words, if it is established and conducted :
- for charitable purposes ;
 - for the purpose of enabling participation in, or of supporting, sport, athletic or a cultural activity; or
 - for any other non-commercial purpose other than for private gain.

18.0 Exchange of Information

- 18.1 To ensure the licensing objectives are met, we will establish a close working relationship with the police, the Gambling Commission and, where appropriate, other responsible authorities.
- 18.2 Subject to the provisions of the Data Protection Act 1998, we will share any information we receive through the application process with the Gambling Commission and any relevant responsible authority. In doing so we will have regard to the Act itself, any guidance issued by the Commission and to any Regulations issued by the Secretary of State. People can access personal information that we hold about them by contacting our Information Management Officer.
- 18.3 We are committed to being open about what we do and how we come to our decisions, in accordance with the spirit of the Freedom of Information Act 2000 (FOIA). An important feature of the FOIA is the requirement for each public authority to produce a publication scheme setting out what information it will publish as a matter of course, how and when it will be published, and whether this information will be free of charge or on payment. Copies of our FOI publication scheme are available on request from our Information Management Officer or via the Council’s website www.bromsgrove.gov.uk.
- 18.4 FOIA also provides the public with a general right of access to information held by public authorities, and subject to exemptions, be supplied with a copy of that information. Individual requests should be made in writing to the Information Management Officer or via the Council’s website.
- 18.5 Unless restricted by the Gambling Act, details about applications, licences and representations will be made available in our public register. Representations that we accept will be copied in their entirety to applicants, to provide an opportunity for mediation and to ensure that the rights of the applicant are not compromised.

19.0 Enforcement Protocols

- 19.1 The main enforcement and compliance role for us in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the Operator and Personal Licences and will also take the lead role on the investigation and where appropriate, the prosecution of

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illegal gambling. Any concerns about manufacture, supply or repair of gaming machines will not be dealt with by us but will be notified to the Gambling Commission.

- 19.2 We will work with the Commission, the Police and other enforcing authorities, having regard to any specific guidance produced by the Gambling Commission, relevant codes of practice, the licensing objectives and this statement of principles, to provide for the targeting of agreed problem or high-risk premises. A lighter touch will be applied to those premises which are shown to be well managed and maintained.
- 19.3 The overall aim is to permit the use of premises for gambling. With that in mind it is intended that action will generally be taken against 'problem' premises through the licence review process.
- 19.4 We will also have regard to the Regulators' Code whilst carrying out our regulatory functions.
- 19.5 We will endeavour to be proportionate; accountable; consistent; transparent and targeted, as well as avoiding duplication with other regulatory regimes so far as possible.
- 19.6 In order to ensure compliance with the law, the Licensing Authority will prepare a risk based Inspection Programme and will carry out regular 'routine' day time programmed inspections, based on risk assessment in the categories High, Medium and Low and will also carry out 'non routine' evening programmed inspections. Where a one off event takes place under a Temporary Use Notice or Occasional Use Notice, the Licensing Authority may also carry out inspections to ensure the Licensing Objectives are being promoted.
- 19.7 High-risk premises are those premises that have a history of complaints and require greater attention with low risk premises needing only a lighter touch so that resources are effectively concentrated on problem premises.

20.0 Reviews

- 20.1 A review of a premises licence can be made by interested parties or responsible authorities, however, we will decide if the review is to be carried out on the basis of the following:
 - In accordance with any relevant Code of Practice and/or guidance issued by the Gambling Commission
 - Consistent with the licensing objectives
 - In accordance with our statement of principles.
- 20.2 We will also consider whether or not the request for a review is frivolous, vexatious, or repetitious or whether we would wish to alter/revoke or suspend the licence.
- 20.3 We can also initiate a review of a premises licence on the basis of any reason which we think is appropriate, including if a premises licence holder has not

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provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

20.4 Once a valid application for a review has been received by us, representations can be made by responsible authorities and interested parties during the statutory consultation period. The purpose of the review will be to determine whether we should take any action in relation to the licence. The options available are:

- Add, remove or amend a licence condition;
- Remove or amend a default condition, such as opening hours;
- Suspend the premises licence for a period not exceeding 3 months;
- Revoke the licence.

DRAFT

List of Consultees

Chief Officer of West Mercia Police

Gambling Commission

All Other Responsible Authorities Identified in the Gambling Act 2005

District Councillors

Parish Councils

Holders of Premises Licences issued by the Council under the Gambling Act 2005

Gambling Trade Associations:

Association of British Bookmakers

British Amusement Catering Trade Association

Bingo Association

National Casino Forum

Lotteries Council

Hospice Lotteries Association

Organisations working with those who have a gambling problem:

GamCare

Gamblers Anonymous

LICENSING COMMITTEE

9th November 2015

RESULTS OF CONSULTATION ON CHANGES TO HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICIES

Relevant Portfolio Holder	Councillor Peter Whittaker
Portfolio Holder Consulted	Yes
Relevant Head of Service	Simon Wilkes - Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

The Licensing Committee has previously instructed Worcestershire Regulatory Services to carry out formal consultation on a number of proposed changes to the Council's existing policies and procedures relating to hackney carriage and private hire licensing

The results of this consultation are now being reported back to the Licensing Committee for consideration.

2. RECOMMENDATIONS

Members are asked to consider the results of the consultation exercise and RESOLVE;

Which proposed changes (if any) to the Council's existing policies and procedures relating to hackney carriage and private hire licensing it wishes to implement.

3. KEY ISSUES

Financial Implications

- 3.1 The costs involved in carrying out the consultation were met from existing budgets held by Worcestershire Regulatory Services.

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Legal Implications

- 3.2 The Council's current policies in relation to the operation of Private Hire Licences and Hackney Carriage Licences are set out in the Taxi Handbook and associated guidance issued by the Council. There were no scheduled reviews due to be undertaken in relation to the Council's policies, although officers ensure that the policies are continually kept up to date to reflect any relevant changes in legislation.

Service / Operational Implications

- 3.3 At its meeting held on 23rd March 2015 the Licensing Committee considered a report on some changes that were being considered in relation to the Council's existing policies and procedures for hackney carriage and private hire licensing.
- 3.4 These proposals originated from the Bromsgrove Taxi Association and had been discussed by the Committee in November 2014 after which trade forums were arranged in February and March 2015.
- 3.5 The Committee considered a summary of the general response to the proposals from the trade forums and resolved to instruct Worcestershire Regulatory Services to carry out formal consultation on the proposals under consideration. The consultation paper approved for this purpose is at Appendix 1.
- 3.6 The consultation exercise was commenced in late April 2015 and originally ran until 31st July 2015. Further consultation was then undertaken with Members of Bromsgrove Engagement and Equalities Forum until 9th October 2015.
- 3.7 The consultation paper was forwarded to:
- All licensed hackney carriage and private hire drivers
 - All licensed private hire operators
 - West Mercia Police – Safer Neighbourhood Inspector
 - West Mercia Safer Roads Partnership
 - Worcestershire County Council – School Transport Department
 - National Private Hire Association
 - Bromsgrove Depot (Licensed Vehicle Testing Station)
 - Parish Councils in the District
 - Members of Bromsgrove Engagement and Equalities Forum

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- 3.8 The consultation was also advertised publically on the Council's website and via social media channels.
- 3.9 A summary of the results of the consultation is at Appendix 2.
- 3.10 All but one of the responses received came from individuals already licensed by the Council to drive or operate hackney carriage or private hire vehicles.
- 3.11 Opinion was mixed in response to most of the proposals being considered. Perhaps unsurprisingly given the profile of those who responded to the consultation the most unpopular proposals were those that would have financial implications on licensed drivers. These being the proposal to lower of the minimum age for licensing a new hackney carriage vehicle to five years and introducing a requirement that newly licensed hackney carriages would have to be wheelchair accessible vehicles (WAVs).
- 3.12 If a requirement that newly licensed hackney carriages have to be WAVs were to be introduced the vast majority of respondents wanted to see grandfather rights afforded to existing licence holders for an indefinite period.
- 3.13 During the course of the consultation period, legal advice has been sought on the Council's functions and duties under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 in relation to the licensing of drivers to drive hackney carriage and private hire vehicles.
- 3.14 The legal advice that has been received is that whilst the Council can choose to offer a dual licence that authorises an individual to drive hackney carriage and private hire vehicles, it should also offer a licence that only authorises an individual to drive private hire vehicles if that is what the applicant wishes to apply for.
- 3.15 On the basis of this advice it is strongly recommended that a private hire driver licence is introduced alongside the existing dual licences currently offered.
- 3.16 Another particular issue that arose during the consultation period is the Council's current requirement under policy for a vehicle to carry a spare wheel and sufficient tools to enable the changing of a wheel.

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- 3.17 Two respondents specifically referred to this issue in their consultation responses and a case has been considered and determined by a Licensing Sub-Committee during the consultation period, where the vehicle was not compliant with this particular requirement. Additionally a letter has been received from a licensed driver who thinks that this requirement ought to be removed. The letter received from the licensed driver can be seen at **Appendix 3**.
- 3.18 The Committee are asked to consider the results of the consultation exercise and decide which of the proposed changes (if any) it would like to implement and whether it wishes to make any other changes in light of the comments received during the consultation period.
- 3.19 Once this decision has been made, officers will then update the Council's hackney carriage and private hire handbook to reflect the changes Members wish to implement. The handbook will then be brought back to Members at a future Committee to be approved in order to bring into effect those changes.

4. RISK MANAGEMENT

- 4.1 The carrying out of consultation on the proposals under consideration was intended to mitigate any risks associated with changing the Council's policies without sufficient evidence to justify such changes.

5. APPENDICES

Appendix 1 – Consultation Document
Appendix 2 – Results of Consultation Exercise
Appendix 3 – Letter from licensed driver

AUTHOR OF REPORT

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Bromsgrove
District Council
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Hackney Carriage and Private Hire Licensing Policies and Procedures A Consultation



Why is this consultation taking place now?

The Council has considered a report from the Bromsgrove Taxi Association which highlighted a number of concerns with the existing policies and procedures. The report also suggested some potential amendments to the existing policies and procedures.

The issues that concern both the Bromsgrove Taxi Association and the Council are the imbalance between the number of Hackney Carriages and Private Hire Vehicles licensed in the District. It is felt that current policies and procedures do not encourage a healthy balance between the two different sectors of the licensed vehicle trade and are leading to an over proliferation of Hackney Carriage vehicles plying for hire in the District.

There is also a perception from the licensed trade that the requirements placed on those applying for licences from Bromsgrove District Council are not as stringent as those in other neighbouring authorities. It is felt that this may be leading to those who cannot meet the requirements in other areas coming to Bromsgrove to obtain licences as an alternative, adding to the over proliferation of Hackney Carriage vehicles plying for hire in the District.

Finally there is concern from the Council that there are very few licensed Hackney Carriage vehicles plying for hire in the District that are capable of carrying a wheelchair user whilst they remain seated in their wheelchair.

The Council is keen to make clear that it is not pursuing any particular changes to policies and procedures with a view to providing protection from competition for the existing licensed trade. However the Council is considering making changes that will improve standards and confidence in the licensed Hackney Carriage and Private Hire trade in the District.

The Council has decided to carry out consultation on some proposed changes with those who would be affected if the changes were made, including:

- Licensed Hackney Carriage and Private Hire Drivers
- Licensed Hackney Carriage and Private Hire Vehicle Proprietors
- Licensed Private Hire Operators
- Relevant Trade Associations
- West Mercia Police
- VOSA
- Worcestershire County Council – School / College Transport
- Organisations representing the elderly and the disabled.
- Residents and those that represent them

How long does this consultation period last for?

This consultation is open for responses until **31st July 2015**.

Where should I send my response to this consultation?

Consultation responses should be forwarded to:

Taxi Consultation – Bromsgrove
Worcestershire Regulatory Services
Wyre Forest House
Finepoint Way
Kidderminster
Worcestershire
DY11 7WF

Alternatively responses can be submitted to the Council by email using the subject line “Taxi Consultation – Bromsgrove” and sent to wrsenquiries@worcsregservices.gov.uk

Will the Council listen to my opinions?

The Council will consider and have regard to all responses it receives during this consultation exercise before deciding whether to proceed with making changes to the existing policies and procedures.

Consultation Questions

Part A – Driver Licensing

The Council is considering introducing a “private hire only” licence alongside the dual hackney carriage and private hire driver licence is currently issues.

The licensing requirements for this new type of licence would be the same as for the dual licence, but the “knowledge test” taken would be tailored to the private hire sector of the trade only with less emphasis placed on elements of local geographic knowledge that is more relevant those licensed to drive hackney carriage vehicles.

Do you agree with this proposal?

YES

NO

Please provide reasons for your answer above (continue on a separate sheet if necessary)

Agenda Item 6

The Council is considering requiring all new applicants for licences to drive Hackney Carriage and/or Private Hire vehicles to undertake a driving standards test.

Do you agree with this proposal?

YES

NO

Please provide reasons for your answer above (continue on a separate sheet if necessary)

The Council is also considering requiring all licence holders who accumulate more than six penalty points on their DVLA licence to undertake a driving standards test.

Do you agree with this proposal?

YES

NO

Please provide reasons for your answer above (continue on a separate sheet if necessary)

Agenda Item 6

The Council is considering requiring all new applicants for licences to drive Hackney Carriage and/or Private Hire vehicles to undertake an “essential skills” test which would cover matters such as basic mathematics, map reading, communication skills etc.

Do you agree with this proposal?

YES

NO

Please provide reasons for your answer above (continue on a separate sheet if necessary)

The Council is considering limiting new applicants to three attempts at passing both the knowledge and essential skills tests before they are barred from attempting the tests again for six months.

Do you agree with this proposal?

YES

NO

Please provide reasons for your answer above (continue on a separate sheet if necessary)

Part A – Vehicle Licensing

The Council is considering introducing a requirement that new hackney carriage vehicles entering the licensed fleet are under five years of age when first licensed. Currently a vehicle can be anything up to ten years of age when first licensed as a hackney carriage.

This policy change would affect both new applicants for Hackney Carriage vehicle licences and those who are replacing their Hackney Carriage vehicles for any reason.

Do you agree with this proposal? (please circle)	YES	NO
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Please provide reasons for your answer above (continue on a separate sheet if necessary)

Agenda Item 6

The Council is considering introducing a requirement that, from a specified future date, all new vehicles being licensed at Hackney Carriage Vehicles must be a wheelchair accessible vehicle (WAV). WAV means a vehicle capable of carrying a wheelchair user whilst they remain seated in their wheelchair.

The effect of this policy change would be to see the gradual phasing out of “saloon” type vehicles so that ten years after the Policy comes into effect all vehicles licensed by the Council to be used as Hackney Carriages should be WAVs.

Do you agree with this proposal?	YES	NO
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Please provide reasons for your answer above (continue on a separate sheet if necessary)

Agenda Item 6

If the Council decides to proceed with the policy change relating to new Hackney Carriages being WAVs do you think that "grandfather rights" should be provided in relation to the holders of existing licences to use vehicles as hackney carriages?

Affording "grandfather rights" to existing licence holders would mean existing vehicle owners would be able to continue replacing their existing vehicles on a "like for like" basis.

YES		NO	
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Please provide reasons for your answer above (continue on a separate sheet if necessary)

Agenda Item 6

If the Council decides to proceed with the policy change relating to new Hackney Carriages being WAVs and decides to afford existing licence holders "grandfather rights," how long should those grandfather rights extend for after the policy comes into effect?

1 year		2 years	
5 years		10 years	
Indefinitely		Other please specify	

Please provide reasons for your answer above (continue on a separate sheet if necessary)

Agenda Item 6

Do you have any other suggestions or comments in relation to the Councils existing policies and procedures in relation to Hackney Carriage and Private Hire Licensing?

Agenda Item 6

In what capacity are you responding to this consultation?			
Licensed Hackney Carriage / Private Hire Driver		Licensed Private Hire Operator	
Member of the Public		Elected representative	
Other (please specify)			

Your Details (optional)	
Name	
Address	
Date of Birth	

Thank you for taking the time to respond to this consultation.

All responses received will be considered by the Council prior to a decision being made about how to proceed.

Agenda Item 6

Bromsgrove District Council

Hackney Carriage and Private Hire Licensing Policies and Procedures Consultation

Results

Total responses: 25 (not all respondents gave an answer to all questions)

24 from licensed drivers / operators (96%)

1 from a Traffic Management Advisor of West Mercia Police (4%)

Question	Yes	No
<p>The Council is considering introducing a “private hire only” licence alongside the dual hackney carriage and private hire driver licence is currently issues.</p> <p>The licensing requirements for this new type of licence would be the same as for the dual licence, but the “knowledge test” taken would be tailored to the private hire sector of the trade only with less emphasis placed on elements of local geographic knowledge that is more relevant those licensed to drive hackney carriage vehicles.</p> <p>Do you agree with this proposal?</p>	<p>8 34.8%</p>	<p>15 65.2%</p>
Comments		
Wants ranks to be for independent taxi drivers only not those who work for operators		
Too many hackney carriages and not enough rank spaces or work for them		
Too many drivers in Bromsgrove already		
Drivers should have knowledge of the whole area		
In depth knowledge not required for private hire only		
Test would be too easy and too much reliance on sat navs		
Private Hire licence would provide invaluable experience and knowledge		
One licence is sufficient		
It doesn't need two licences		
Should stay as it is, no major difference anyway		
Leave it how it is		
Present test is fine		
Private hire jobs booked in advance so driver with limited knowledge can still carry out job effectively		
Knowledge equally important to both parts of the trade		

Agenda Item 6

Question	Yes	No
<p>The Council is considering requiring all new applicants for licences to drive Hackney Carriage and/or Private Hire vehicles to undertake a driving standards test.</p> <p>Do you agree with this proposal?</p>	<p>11 45.8%</p>	<p>13 54.2%</p>
Comments		
Increased standards are a good idea		
Passenger safety and competence of driver		
Standard driving test should suffice		
Would improve driving standards		
Driving standards need to be improved		
Driving standards amongst some newer drivers are poor		
Drivers need to be competent due to public safety		
Feels it is unnecessary		
Passing driving test is sufficient		
Will incur extra cost and normal driving test is sufficient		
This is just making it harder for newcomers to come into the trade		
Passing DVLA test should be enough		
DVLA is satisfactory		
Extra cost and not necessary		
Increase cost and would not guarantee safe driving		
Provide benchmark - particularly useful for drivers from other EU countries		

Agenda Item 6

Question	Yes	No
<p>The Council is also considering requiring all licence holders who accumulate <u>more than</u> six penalty points on their DVLA licence to undertake a driving standards test.</p> <p>Do you agree with this proposal?</p>	<p>3 12.5%</p>	<p>21 87.5%</p>
Comments		
Think it should be 10 points		
Drivers are responsible for public safety		
Unfair as taxi drivers are bound to pick up points for minor speeding offences		
Six points too low to warrant such actions		
Suggests 9 point threshold		
The council is not above the law		
Due to nature of the job drivers will accumulate points due to distractions from passengers		
Due to nature of the job drivers will accumulate points due to distractions from passengers		
Would uphold standards and keep the public safe		
Law of the land allows 12 points		
Depends on the offence. Licence should be reviewed for dangerous/drink driving but SP30 is an occupational hazard		
Sometimes it happens and I do not think that if you have six points it will affect your professional driving skills		
Very easy to get 6 points even in a day therefore inappropriate to judge driving skills through such a manner		
You could get 6 points or more in a minute so if this was enforced then drivers would lose out on their livelihood		
Anybody can get 6 points in one day as they are on the road all the time		
Extra cost - monitoring complaints would be better guide rather than number of points		
Penalty points can be picked up for many reasons and does not automatically mean a driver is dangerous		
Depends on what points were given for		

Agenda Item 6

Question	Yes	No
<p>The Council is considering requiring all new applicants for licences to drive Hackney Carriage and/or Private Hire vehicles to undertake an “essential skills” test which would cover matters such as basic mathematics, map reading, communication skills etc.</p> <p>Do you agree with this proposal?</p>	<p>16 69.6%</p>	<p>7 30.4%</p>
Comments		
Better standards are needed		
Taxi drivers should have good English language skills, basic mathematics and excellent communication / people skills		
NVQ Qualification should have covered this		
Would have no impact whatsoever		
New drivers are having communication difficulties		
Had comments from passengers about poor communication skills of some drivers		
Had comments from passengers about poor communication skills of some drivers		
Nothing more embarrassing than driver giving wrong change and not knowing where they are going		
Too many drivers coming through now		
Let them do the NVQ test first instead of having this proposal		
Existing tests are enough		
NVQ is required anyway		
NVQ required in first year of licence		
Being able to add and subtract is important to protect public and the driver. Being able to understand and be understood important.		
Good English most important. More tests is more work for licensing officers and more costs for drivers		
Basic skills should be demonstrated		

Agenda Item 6

Question	Yes	No
<p>The Council is considering limiting new applicants to three attempts at passing both the knowledge and essential skills tests before they are barred from attempting the tests again for six months.</p> <p>Do you agree with this proposal?</p>	<p>19 79.2%</p>	<p>5 20.8%</p>
Comments		
Applicants should be prepared to learn enough to pass the test on the 1st attempt		
The Council should limit the amount of drivers in Bromsgrove		
If they cannot pass in three attempts they have not prepared properly		
Neither knowledge test or essential skills test matter with todays technology		
If they cannot pass first time they should not be allowed a licence		
Perception exists that Bromsgrove is an "easy touch"		
Perception exists that Bromsgrove is an "easy touch"		
So the applicant gets it right before they hit the road		
Fair enough		
Three failures would indicate more work was needed - 6 months seems fair		
Good idea - should pay for further tests		
If they take multiple times it is a memory test not a knowledge test		

Agenda Item 6

Question	Yes	No
<p>The Council is considering introducing a requirement that new hackney carriage vehicles entering the licensed fleet are under five years of age when first licensed. Currently a vehicle can be anything up to ten years of age when first licensed as a hackney carriage.</p> <p>This policy change would affect both new applicants for Hackney Carriage vehicle licences and those who are replacing their Hackney Carriage vehicles for any reason.</p> <p>Do you agree with this proposal?</p>	<p>5 20.8%</p>	<p>19 79.2%</p>
Comments		
Think it should be 7 years		
Drive standards up and let the public travel in decent vehicles		
7 years would be better. Concerned about cost of replacing vehicles every 5 years.		
Age of vehicle does not matter - should be about condition and appearance		
Normal MOT test is sufficient standard of safety, regardless of vehicle age		
Concerns about costs of vehicles		
Happy with current rules and regulations		
Current calibre of vehicles is "shocking" and vehicles are bought "on the cheap"		
Current calibre of vehicles is "shocking" and vehicles are bought "on the cheap"		
No changes to existing rules required		
Bromsgrove is a small town and there is not enough work to enable them to buy new cars		
The revenue here does not warrant it		
Thinks the age limits should be extended and not reduced		
In current economic climate people cannot afford newer cars. Age limit should be 15.		
Current is fine but extending age limit to 15 years would be helpful		
Provided requirement for spare wheel is removed as this will become increasingly difficult with modern vehicles		
No evidence of need. Cannot afford extra cost of buying and insuring newer vehicles		
Hard to make a living already. Would force people out of work		

Agenda Item 6

Question	Yes	No
<p>The Council is considering introducing a requirement that, from a specified future date, all new vehicles being licensed at Hackney Carriage Vehicles must be a wheelchair accessible vehicle (WAV). WAV means a vehicle capable of carrying a wheelchair user whilst they remain seated in their wheelchair.</p> <p>The effect of this policy change would be to see the gradual phasing out of "saloon" type vehicles so that ten years after the Policy comes into effect all vehicles licensed by the Council to be used as Hackney Carriages should be WAVs.</p> <p>Do you agree with this proposal?</p>	<p>2</p> <p>8.3%</p>	<p>22</p> <p>91.7%</p>
Comments		
No unless funding provided to assist with upgrade		
Ten years is a generous period to bring it in		
40-50% of passengers are elderly and cannot access such vehicles. Most wheelchair users get on fine with normal cars and put chair in the boot		
Concerned about cost		
Companies should have at least one WAV with smaller companies they should have a WAV as they are unable to call a back up vehicle to provide the service		
For new hackney drivers only		
Limited market for the service and not a shortage of vehicles providing this service in my experience		
We are a rural town - people want to travel in comfort and style rather than a "black cab" vehicle		
The community here doesn't want it. We only get 3 - 4 enquiries per year requesting this.		
Not enough WAV work to justify. Very expensive. Elderly passengers cannot access WAVs easily. Other Councils allow saloon types. Not enough space on rank		
Would cost too much		
Cost would prohibit people licensing vehicles as hackney carriages. If there is demand, the market will adapt to meet it.		
Driver of two WAVs. Little demand for these in Bromsgrove. 3 request in last year. Financial implications.		
Very expensive. Would be overkill. People would leave Bromsgrove trade and cause shortage of taxis. Requests are rare for this type of vehicle		

Agenda Item 6

Question	Yes	No
<p>If the Council decides to proceed with the policy change relating to new Hackney Carriages being WAVs do you think that “grandfather rights” should be provided in relation to the holders of existing licences to use vehicles as hackney carriages?</p> <p>Affording “grandfather rights” to existing licence holders would mean existing vehicle owners would be able to continue replacing their existing vehicles on a “like for like” basis.</p>	<p>21 87.5%</p>	<p>3 12.5%</p>
Comments		
Drivers have not factored in having to buy WAVs		
With a ten year lead in period there is plenty of time to prepare for the change		
Concerns about cost of WAV		
Insufficient trade to pay for finance on expensive WAVs and pay household bills		
Insufficient trade to pay for finance on expensive WAVs and pay household bills		
From experience public seem happy with existing vehicles available and if specialist vehicle required there are some available		
This is a specialised thing which would incur extra training. I think the call isn't there for this		
Most drivers will leave the trade if this comes in		
But it is not fair to have different rules for different people		
But would not be fair on new drivers		
Existing drivers should not be forced into leaving the trade for cost reasons.		
Existing drivers should not be forced into leaving the trade for cost reasons.		
Otherwise expense would put existing drivers out of business		

Agenda Item 6

Question	1 year	2 yrs	5 yrs	10 yrs	Indefinitely
If the Council decides to proceed with the policy change relating to new Hackney Carriages being WAVs and decides to afford existing licence holders "grandfather rights," how long should those grandfather rights extend for after the policy comes into effect?	1 4.3%	0 0%	0 0%	2 8.7%	20 87.0%
Comments					
WAVs very expensive to purchase and the drivers are too old to take on loans					
WAVs very expensive to purchase and the drivers are too old to take on loans					
Has to be forever otherwise will not be considered grandfather rights					
10 years seems a fair period to allow to plan for change					
Reviewed every 5 years					
Expense would put existing drivers out of business					

Agenda Item 6

Do you have any other suggestions or comments in relation to the Councils existing policies and procedures in relation to Hackney Carriage and Private Hire Licensing?

The suitability of prospective taxi drivers, driving standards and the mechanical condition of taxis has always been an area of concern for the police.

Any proposed measures that are sought to advance the quality of driving standards, the appropriateness of drivers to carry out this role, improved vehicle roadworthiness and disability access, whereby increased road safety is achieved would be welcomed.

Provide a shelter on the rank and a smoking area

Impose a dress code (smart/casual)

Provide CCTV on the rank

Cap the number of drivers

Make it a rule that applicants must live in the district

Remove mid-term test requirement for vehicles

Have more surgeries or longer surgeries

Allow spouses to drive "off duty private hire vehicles"

More enforcement against members of the public parking on taxi ranks

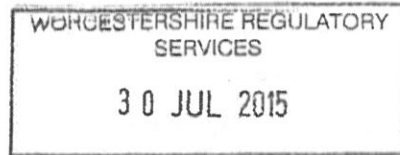
More signage is needed to stop the public parking illegally

Existing policies on providing a spare wheel and not being allowed tinted windows needs looking at

Extend age of vehicles

Test could be harder

Remove the requirement to carry a spare wheel – run flat tyres or a puncture repair kit should suffice



Head of Licensing
Worcestershire Regulatory Services
Wyre Forest House
Finepoint Way
Kidderminster
DY11 7WF

28th July 2015

Dear Sir/Madam

Re: Private/Public Hire Vehicle – spare wheel requirement

I am currently an independent licensed taxi driver in Bromsgrove, however I will shortly be applying for an Operators License to enable me to offer a Private Hire Executive Service with a Mercedes E Class I have just ordered.

This is a standard, brand new Mercedes E Class the car most used and suited to the Executive/Chauffeur type of work. However I have been advised by licensing that my vehicle will not be deemed suitable as it does not have “a spare wheel and enough tools to enable a wheel to be changed”.

Not only does it not have a spare wheel but it doesn't have the space to put one, due to the BlueTEC system which reduces emissions and is situated where a spare wheel would have been in older models. The government are keen to reduce vehicle pollution and one way manufactures do this is to reduce vehicle weight, to reduce fuel consumption and therefore reduce harmful emissions. So to buy a spare wheel, jack and brace to put in the boots luggage space seems totally against what everyone else is trying to achieve.

In addition to increasing pollution how would this help the family that want to go on holiday whose luggage I couldn't fit in the boot, or the disabled passenger who I have to refuse because I couldn't fit his wheelchair in the boot?

My car will have the tools to deal with a puncture as required by the law and this should be sufficient for a licensed vehicle. Yes, these tools won't deal with a catastrophic tyre/wheel failure but blow outs very rarely happen to cars and often involve accident damage, while hitting a big pothole in the road would also be likely to cause damage to the vehicle suspension. Neither of these situations would be solved by carrying a spare wheel.

A vehicle is much more likely to have a windscreen break or a mechanical breakdown but licensing do not require drivers to have windscreen replacement cover or breakdown cover. If a driver has a problem with their vehicle that can't be sorted immediately, then they would contact another driver to arrange for any passengers in the car at the time to be collected and taken to their destination. Even if a driver has a puncture they wouldn't keep passenger's waiting while they fix it whether they had a spare tyre or not.

Agenda Item 6

I have spoken to a number of other drivers who support my view that this requirement needs to be removed to allow for the way new cars are being manufactured. Whether I had purchased a brand new Mercedes C or E Class, BMW 5 or 7 Series or Audi A6 none would be allowed to be used for carriage of passengers by Bromsgrove Licensing as none of them have a spare wheel.

I am also aware that many licenses have been issued to cars without spare wheels over the last few years (including this year) and that some haven't which seems unfair. What also seems unfair is that there must be thousands of Mercedes, BMW's, Audi's etc. that are being used for private/public hire throughout the country in other licensing areas that are not carrying a spare wheel and taking up luggage space.

One last point: more cars now come without a spare wheel than do, so this situation is going to become more and more of a problem if you want drivers to have newer vehicles.

I would be grateful if you would look into this outdated requirement as a matter of urgency as I take delivery of my car on 1st September 2015 and will require it plating on or around that date.

Thank you.

Yours sincerely,

LICENSING COMMITTEE

9th November 2015

UBER – INFORMATION REPORT

Relevant Portfolio Holder	Councillor Peter Whittaker
Portfolio Holder Consulted	Yes
Relevant Head of Service	Simon Wilkes - Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

At the request of the Chairman of the Licensing Committee, this report has been prepared to provide information to Members of the Licensing Committee on the company that trades as Uber.

2. RECOMMENDATIONS

Members are asked to note the content of the report.

3. KEY ISSUES

Financial Implications

3.1 None

Legal Implications

3.2 None

Service / Operational Implications

3.3 This report has been produced at the request of the Chairman of the Licensing Committee to provide some information on the company that trades in the UK and around the world as “Uber”. The Chairman has requested the report in light of increasing publicity surrounding the activities of this company, which is now known to be operating close to the District in Birmingham.

LICENSING COMMITTEE

9th November 2015

- 3.4 Uber Technologies Inc. is an American international transportation network company headquartered in San Francisco, California. The company develops, markets and operates the Uber mobile app, which allows consumers with smartphones to submit a trip request which is then routed to Uber drivers who use their own cars. Essentially it is an online booking service for private hire vehicles.
- 3.5 Using GPS, it detects your location and connects you with the nearest driver. You can also request a specific type of car if you prefer - such as a luxury ride or a straightforward private hire vehicle. The app texts you when the driver arrives and you can check the identity of the driver against who actually shows up.
- 3.6 By May 2015, the service was believed to be available in 58 countries and 300 cities worldwide.
- 3.7 It should be noted that Uber is not the only smartphone app to have been developed to help connect passengers and taxi / private hire service providers. Other examples operating in the UK include Hailo, Addison Lee, Bounce, Kabbee and Gett.
- 3.8 The activities of Uber have sometimes provoked controversy in some countries with questions raised about the legalities of their operating model. However within the UK it should be stressed that Uber appears to be operating entirely lawfully within the private hire licensing regimes provided for in London by the Private Hire Vehicles (London) Act 1998 and in the rest of England and Wales under the Local Government (Miscellaneous Provisions) Act 1976.
- 3.9 Uber Technologies Inc. would appear to have subsidiary companies trading in the UK including Uber London Limited and Uber Britannia Limited.
- 3.10 The Uber website at www.uber.com/legal/gbr/terms states that Uber is the holder of Private Hire Vehicle operator licence in each of the jurisdictions in which it operates, and accepts at its registered address and/or operations centre, private hire bookings made by the Uber App.
- 3.11 The controversy surrounding Uber's operations in London relate to the way that the fares charged to passenger using the Uber app are calculated and also the fact that they are generally cheaper than those charged by London's world famous "Black Cabs."
- 3.12 The fares charged by Uber are calculated via GPS and in London it has been argued that this is basically the same as using a taximeter, which in London, only licensed hackney carriages can use as a result of section 11 of the Private Hire Vehicles (London) Act 1998.

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9th November 2015

- 3.13 The controversy has led to protests from taxi drivers in London but Transport for London (TfL), which regulates taxi and private hire vehicles in the City, has taken legal advice and has concluded that Uber is not operating unlawfully and that the calculation of a fare via GPS is not the same as using a taximeter.
- 3.14 This is not necessarily the end of the matter however as the London Taxi Driver Association (LTDA) has apparently issued summonses at Westminster Magistrates Court to a number of Uber drivers whom it is seeking to privately prosecute for offences under section 11 of the Private Hire Vehicles (London) Act 1998.
- 3.15 Recently the High Court ruled that the Uber app does not break the law. The case was considered by the Court at the request of TfL who said taking the case was in the public interest. Mr Justice Ouseley declared that taximeters do not operate in the same way as the app as they do not depend on GPS signals or include the app's other new-tech characteristics to calculate fares. Transport for London welcomed the ruling, saying there had been "significant public interest in establishing legal certainty in the matter".
- 3.16 The LTDA has made statements indicating that they would appeal against the High Court decision to the Court of Appeal.
- 3.17 It is important to recognise that the legal challenges to the way Uber operates in London are not replicated in the rest of England and Wales, as private hire vehicles are allowed to utilise taximeters outside of London as there is no equivalent provision to section 11 of the Private Hire Vehicles (London) Act 1998 in the Local Government (Miscellaneous Provisions) Act 1976.
- 3.18 Uber has now expanded its operation in England and Wales beyond London and the company now has licences to operate in Manchester, Leeds, Birmingham, Bristol, Newcastle and Sheffield. The company's expansion has been rapid and indications are that it will continue to grow and will seek to expand its services into other towns and cities throughout England and Wales.
- 3.19 As with all licensed private hire operators, Uber can dispatch vehicles and drivers to carry out work anywhere in the country, providing that the vehicle and driver that is allocated the booking is also licensed with the local authority that issued the relevant private hire operator licence.

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- 3.20 Due to the relaxation on sub-contracting rules for private hire vehicles that came into effect on 1st October 2015, Uber can also sub-contract bookings to other licensed private hire operators in other local authority areas so they that operator can dispatch an appropriately licensed vehicle and driver.
- 3.21 As bookings are made via the smartphone app, it is difficult to see how it can be proven precisely in which local authority areas Uber is “making provision for the invitation and acceptance of bookings for private hire vehicles” and therefore where it needs to obtain licences from.
- 3.22 However enquiries with Birmingham City Council have revealed that Uber has an operating base in Birmingham that is used in connection with their private hire operator’s licence there.
- 3.23 The emergence of Uber and other smartphone taxi booking apps has highlighted the urgent need for reform of the badly outdated taxi and private hire legislation that is struggles to cope with regulating this service due to modern technological advances like smartphones and the internet, which were not around in 1976.

4. RISK MANAGEMENT

- 4.1 None

5. APPENDICES

None

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LICENSING COMMITTEE

9th November 2015

9th November 2015

Verbal Update from the Licensing and Support Manager, Worcestershire Regulatory Services (WRS) on the awareness raising by WRS officers as detailed in the Worcestershire's Child Sexual Exploitation Strategy Action Plan.

Gambling Act 2005 – Review of Statement of Principles – Consultation Results

Hackney Carriage and Private Hire Licensing Policies Consultation Results

Uber Information Report

14th March 2016

Presentation from the Head of Community Services – Worcestershire's Child Sexual Exploitation Strategy Action Plan.

Draft Sex Establishment Licensing Policy – Consultation Results and determined fees

Approval of Amended Hackney Carriage and Private Hire Handbook

To Be Allocated To Suitable Available Dates

Draft Scrap Metal Licensing Policy – Approval for Consultation

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