



**BROMSGROVE DISTRICT COUNCIL**

**MEETING OF THE LICENSING COMMITTEE**

MONDAY 13TH MARCH 2017

AT 6.00 P.M.

PARKSIDE SUITE, PARKSIDE, MARKET STREET, BROMSGROVE,  
WORCESTERSHIRE, B61 8DA

MEMBERS: Councillors R. L. Dent (Chairman), C. J. Spencer (Vice-Chairman),  
M. T. Buxton, B. T. Cooper, J. M. L. A. Griffiths, 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 18th January 2017 (Pages 1 - 4)
4. Legislative Update (Pages 5 - 70)
5. Revised Street Trading Policy - Approval for Consultation (Pages 71 - 106)
6. Licensing Committee Work Programme (Pages 107 - 108)

7. 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

Parkside  
Market Street  
BROMSGROVE  
Worcestershire  
B61 8DA

2nd March 2017



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## **BROMSGROVE DISTRICT COUNCIL**

### **MEETING OF THE LICENSING COMMITTEE**

**WEDNESDAY 18TH JANUARY 2017 AT 6.00 P.M.**

PRESENT: Councillors R. L. Dent (Chairman), C. J. Spencer (Vice-Chairman), M. T. Buxton, B. T. Cooper, J. M. L. A. Griffiths, C. M. McDonald, S. R. Peters, S. P. Shannon, M. A. Sherrey (substituting for Councillor P. L. Thomas), L. J. Turner and S. A. Webb

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

18/16

#### **APOLOGIES**

An apology for absence was received from Councillor P.L. Thomas. The Committee was advised that Councillor M. A. Sherrey was attending as the substitute member for Councillor P. L. Thomas.

19/16

#### **DECLARATIONS OF INTEREST**

No declarations of interest were received.

20/16

#### **MINUTES**

The minutes of the meeting of the Licensing Committee held on 14th November 2016 were submitted.

**RESOLVED** that the minutes of the meeting held on 14th November 2016 be approved as a correct record.

21/16

#### **OPTIONS FOR INCREASING THE NUMBER OF HACKNEY CARRIAGE VEHICLES THAT ARE WHEELCHAIR ACCESSIBLE VEHICLES**

At the Council meeting held on 23rd November 2016, a Notice of Motion was submitted by Councillor C. M. McDonald as follows:-

“That this Council takes positive action in adopting a policy that ensures all new Hackney Cabs will be wheelchair accessible vehicles”.

A substantive motion was declared carried in the following terms:-

“That the Council reviews its policy for wheelchair accessible vehicles in light of the Licensing Committee’s deliberations, the meeting of the Committee to be held within 8 weeks and 3 days”.

# Agenda Item 3

Licensing Committee  
18th January 2017

Following on from the Council meeting, an additional meeting of the Licensing Committee was arranged in order for Members to consider the substantive motion as carried.

The Senior Licensing Practitioner, WRS, presented the report and in doing so reminded Members that two consultations had previously taken place; one in March 2015 and one during January to April 2016.

Members were informed that currently 124 vehicles were licensed in the district to be used as hackney carriages, seven of which were wheelchair accessible vehicles (WAV's). 'Wheelchair accessible vehicles' referred to a vehicle that was constructed or adapted to carry a wheelchair user whilst they remained seated in their wheelchair.

During previous Licensing Committee meetings Members had expressed their concern with regard to the low number of wheelchair accessible hackney carriage vehicles currently licensed in the district.

The Senior Licensing Practitioner, WRS, reminded Members that the second comprehensive consultation was conducted in order to ascertain if there was a demand for WAVs, if that demand was being met, or if there was a perception that demand was not being met. The consultation also took into account visitors accessing Bromsgrove via the new railway station.

The Senior Licensing Practitioner, WRS then drew Member's attention to Appendix 1 to the report, which included the second consultation document and the responses received. Only seven responses were returned from the relevant organisations consulted with. The replies received from the taxi trade suggested that there was little demand for WAV's in the district. The consultation document was sent to all licensed drivers, with advice sought from the Council's Policy Manager as to the relevant organisations / agencies to consult with. The consultation document was also made available on the Council's website and advertised in the local press.

Members agreed that they were disappointed with the low number of responses received.

Councillor S.P. Shannon reiterated the issues he had raised at previous meetings; with regard to the improved facilities for wheelchair users now provided at the new railway station. He felt that there was some resistance to supply a suitable taxi service. There had been a rather slow change in getting buses adapted, but this had now been achieved and had made it easier for wheelchair users to access the bus services provided. With the facilities that were now available at the new railway station there could be a potential increase in wheelchair users visiting Bromsgrove, which would potentially see an increased need for WAV's in the district.

# Agenda Item 3

Licensing Committee  
18th January 2017

In response to questions from Members, the Senior Licensing Practitioner, WRS, informed the Committee that Redditch Borough Council had adopted a policy that applications for additional licences for hackney carriages would only be granted to approved new vehicles with facilities for carrying a disabled person in a wheelchair within the vehicle. Wyre Forest District Council only licenced new vehicles of a purpose built design for use as hackney carriages. The vehicle must be designed and developed exclusively for use as a wheelchair accessible taxi. Wychavon and Malvern Hills District Councils had no policy requirement for vehicles to be WAV's. Worcester City Council currently has a cap in place meaning they will not increase the number of hackney carriages it licences beyond current levels. Before the cap came into effect in 2014, any additional hackney carriage licensed by Worcester City Council had to be a WAV but the existing saloon cars that the Council had licensed could be replaced "like for like" with another saloon car then reaching the age limit set out in the Council's policy.

In response to Councillor B. T. Cooper, the Senior Licensing Practitioner, WRS, informed Members that the Equality Act 2010 included many of the taxi and private hire vehicle provisions from the Disability Act 1995. Some of the taxi and private hire vehicle sections were brought into force on 1st October 2010, namely, relating to duties to assist passengers in wheelchairs and guide dogs and assistance dogs. But there were many provisions of the Equality Act 2010 which had not been brought into force and no clear indication had been given as to when these provisions would be brought into force.

Members continued the debate with regard to evidence of an unmet demand for WAVs. The majority of Members were in agreement that there was no specific evidence to indicate that there was currently an unmet demand. No specific complaints had been received by Members or officers from WRS. Two consultations had been conducted with the taxi trade and service users, with a low response being received from both.

Councillor C. M. McDonald reiterated her view that the Council should do something positive and take the lead to ensure that new hackney cabs were wheelchair accessible vehicles. She reported that she had tried, today, but had found it difficult to successfully find a wheelchair accessible vehicle for hire. The practicality of booking a WAV was also questioned.

In response to further questions from Members, the Senior Licensing Practitioner, WRS, stated that there were currently thirteen wheelchair accessible vehicles licensed in the district; six private hire vehicles and seven hackney carriage vehicles. Birmingham City Council and Coventry City Council had a policy whereby all hackney carriages had to be WAV's, which could be due to the specific demand /market forces in such large cities; rural areas may not have such a demand for WAV's.

# Agenda Item 3

Licensing Committee  
18th January 2017

Members were in agreement that it was disappointing that there were only thirteen WAV's currently licensed in the district, this was a low percentage of vehicles.

Further in depth discussions followed with regard to a lack of supporting evidence to suggest that there was currently an unmet demand and raising public awareness. Members agreed that it would be useful to raise public awareness. A number of Members were aware that other local authorities provided detailed information on their websites of taxi companies who had WAV's available on their fleets.

The Chairman reiterated the three options as detailed at 3.12, 3.17 and 3.12 in the report.

**RESOLVED:**

- a) that Option 3 be approved – “The Council to take no further steps with a view to increasing the number of hackney carriage vehicles licensed by Bromsgrove District Council that are wheelchair accessible vehicles”;
- b) that officers be tasked to liaise with the taxi trade with regard to specific information being provided in a media campaign to raise public awareness of taxi companies licensed in the district with wheelchair accessible vehicles; and
- c) that following the public awareness raising campaign, a twelve month review of WAV's be carried out with the results being brought back to a future meeting of the Licensing Committee.

The meeting closed at 7.15 p.m.

Chairman



## LICENSING COMMITTEE

13<sup>th</sup> March 2017

### LEGISLATIVE UPDATE REPORT

Relevant Portfolio Holder	Councillor P. Whittaker
Portfolio Holder Consulted	No
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

This report aims to highlight to Members changes in legislation that have taken place and that are proposed to take place that relate to the Council's licensing functions which are carried out by Worcestershire Regulatory Services on behalf of the Council.

#### 2. RECOMMENDATIONS

**That Members NOTE the contents of the report.**

#### 3. KEY ISSUES

##### Financial Implications

3.1 There are no direct financial implications arising from this report.

##### Legal Implications

3.2 The legal implications can be found in the main body of the report.

##### Service / Operational Implications

3.3 This report aims to highlight to Members changes in legislation that have taken place and that are proposed to take place that relate to the Council's licensing functions which are carried out by Worcestershire Regulatory Services on behalf of the Council.

## LICENSING COMMITTEE

13<sup>th</sup> March 2017

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### **Immigration Act 2016**

- 3.4 The Immigration Act 2016 received Royal Assent on 12<sup>th</sup> May 2016. The Act includes provisions aimed at making it more difficult for people to live and work illegally in the United Kingdom.
- 3.5 Schedule 5 of the Immigration Act 2016 came into effect on 1<sup>st</sup> December 2016 and impact on the Council's taxi and private hire licensing functions. These new provisions mean that hackney carriage and private hire driver and operator licences must not be issued to people who are illegally present in the UK, who are not permitted to work, or who are permitted to work but are subject to a condition that prohibits them from holding such a licence.
- 3.6 The provisions also add immigration offences and penalties to the list of grounds on which operator and private hire and taxi driver licences may be suspended or revoked by licensing authorities. In circumstances where the operator or driver licence expires, is revoked or suspended on immigration grounds, it must be returned to the issuing licence authority. Failure to return the licence will be a criminal offence, punishable on conviction in a Magistrates' Court by a fine.
- 3.7 The Home Office has published detailed guidance on the new provisions which can be seen at **Appendix 1**.
- 3.8 Licensing Officers have received training from the Home Office Immigration Enforcement team on the new provisions and on document fraud awareness and are taking steps to ensure compliance with the new provisions introduced as a result of Schedule 5 coming into force.

### **Policing and Crime Act 2017**

- 3.9 The Policing and Crime Act 2017 received Royal Assent on 31<sup>st</sup> January 2017. The Act contains provisions that will impact on both taxi licensing and the licensing of alcohol and late night refreshment under the Licensing Act 2003.
- 3.10 A summary of the provisions that affect the licensing regimes carried out by Worcestershire Regulatory Services on behalf of the Council is shown at **Appendix 2**.
- 3.11 Officers will be monitoring progress towards the commencement of the licensing related provisions in the Act carefully and Members will be provided with further information and reports as and when necessary.

## LICENSING COMMITTEE

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### **Section 165 – 167 of the Equality Act 2010 Taxi and Private Hire Passengers in Wheelchairs**

- 3.12 On 7<sup>th</sup> February 2017 the Department for Transport (DfT) announced their intention to implement sections 165 – 167 of the Equality Act 2010 with effect from 6<sup>th</sup> April 2017.
- 3.13 From 6th April 2017 drivers of designated wheelchair accessible taxi and private hire vehicles will be obliged by law to:
- transport wheelchair users in their wheelchair
  - provide passengers in wheelchairs with appropriate assistance
  - charge wheelchair users the same as non-wheelchair users
- 3.14 The new rules will apply in England, Wales and Scotland affecting vehicles that are designated as wheelchair accessible and will apply to both taxis and private hire vehicles.
- 3.15 Drivers found to be discriminating against wheelchair users face fines of up to £1,000. Drivers may also face having their taxi or private hire vehicle (PHV) licence suspended or revoked by their licencing authority. Drivers unable to provide assistance for medical reasons will be able to apply to the Council for an exemption from the new requirements.
- 3.16 The DfT have published guidance on the new provisions and this can be seen at **Appendix 3**.
- 3.17 Further updates and reports in relation to this change in the law will be brought before Members later this year. Efforts will also be made to raise awareness amongst licensed drivers about the new law and how it affects them.

### **Animal Licensing Proposals (DEFRA)**

- 3.18 Between December 2015 and March 2016, DEFRA carried out consultation with stakeholders as part of a review of animal establishment licensing in England.
- 3.19 DEFRA has considered the responses to this consultation exercise and has now published a document entitled *“The review of animal establishments licensing in England – Next steps.”* This document is attached to the report as **Appendix 4**.

## LICENSING COMMITTEE

13<sup>th</sup> March 2017

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- 3.20 DEFRA is proposing to update and combine the current licensing regimes that regulate the sale of pet animals, dog and cat boarding, dog breeding and riding schools. These licensing functions are carried out by Worcestershire Regulatory Services on behalf of the Council.
- 3.21 Officers will continue to monitor the progress of the review of animal establishment licensing in England and will provide further information and reports to update Members on progress in due course.

### 4. RISK MANAGEMENT

- 4.1 Officers will closely monitor the progress towards implementation of the various legislative measures and proposals to ensure the Council is fully prepared for the changes these will make to the licensing functions carried out by Worcestershire Regulatory Services on behalf of the Council.

### 5. APPENDICES

- Appendix 1 – Immigration Act 2016 Guidance
- Appendix 2 – Summary of Policing and Crime Act 2017 Provisions affecting licensing.
- Appendix 3 – Guidance on sections 165 & 167 Equality Act 2010
- Appendix 4 – DEFRA “Next Steps” Publication

### AUTHOR OF REPORT

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Home Office

# **GUIDANCE FOR LICENSING AUTHORITIES TO PREVENT ILLEGAL WORKING IN THE TAXI AND PRIVATE HIRE SECTOR IN ENGLAND AND WALES**

1 December 2016

Produced by the Home Office

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## 1. Introduction

The [Immigration Act 2016](#) (the 2016 Act) amended existing licensing regimes in the UK to seek to prevent illegal working in the private hire vehicle (PHV) and taxi sector<sup>1</sup>. With effect from 1 December 2016, the provisions in the 2016 Act prohibit all licensing authorities<sup>2</sup> across the UK from issuing to anyone who is disqualified by reason of their immigration status and they discharge this duty by conducting immigration checks. The 2016 Act also embeds other immigration safeguards into the existing licensing regimes across the UK.

### 1.1 What does this measure do?

The provisions in the 2016 Act amend existing licensing regimes to prevent people without lawful immigration status and the right to work from holding an operator or a PHV or taxi driver licence<sup>3</sup>. This has been achieved by adapting the following existing licensing legislation across the UK: London Hackney Carriages Act 1843; the London Cab Order 1934; Private Hire Vehicles (London) Act 1998; Metropolitan Public Carriage Act 1869; Local Government (Miscellaneous Provisions) Act 1976; Plymouth City Council Act 1975; Road Traffic Offenders (Northern Ireland) Order 1996 and the Taxi Act (Northern Ireland) 2008. The Civic Government (Scotland) Act 1982 (Licensing of Booking Offices) Order 2009 will also be amended in due course in respect of booking offices in Scotland.

The new provisions mean that driver and operator licences must not be issued to people who are illegally present in the UK, who are not permitted to work, or who are permitted to work but are subject to a condition that prohibits them from holding such a licence.

Licensing authorities must discharge this duty by requiring the applicant to submit one of a number of prescribed documents which show that the applicant has permission to be in the UK and undertake work as an operator or a private hire or taxi driver. The check must be performed when the applicant first applies for a licence or first applies to renew or extend their licence whether for the full statutory term or a lesser period on or after 1 December 2016. For those who have limited permission to be in the UK, the licensing authority must repeat the check at each subsequent application to renew or extend the licence until such time as the applicant demonstrates that they are entitled to remain indefinitely in the UK.

Where a person's immigration permission to be in the UK is time-limited to less than the statutory length for a driver or operator licence, the licence must be issued for a duration which does not exceed the applicant's period of permission to be in the UK and work. In the event that the Home Office cuts short or ends a person's immigration permission (referred to as curtailment or revocation), any licence issued as a consequence of an

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<sup>1</sup> Outside London, these provisions also apply to pedi-cabs by virtue of being 'hackney carriages'.

<sup>2</sup> The exceptions are London taxis, for which Transport for London will make equivalent provision by amending the London Cab Order 1934 and booking offices in Scotland, where the Civic Government (Scotland) Act 1982 (Licensing of Booking Offices) Order 2009 will be amended by a consequential amendment.

<sup>3</sup> The provisions do not prevent people without lawful immigration status who already hold a licence from continuing to doing so.



application which was made on or after 1 December 2016, that the person holds will automatically lapse.

The provisions also add immigration offences and penalties to the list of grounds on which operator and private hire and taxi driver licences may be suspended or revoked by licensing authorities. In circumstances where the operator or driver licence expires, is revoked or suspended on immigration grounds, it must be returned to the issuing licence authority. Failure to return the licence will be a criminal offence, punishable on conviction in a Magistrates' Court by a fine ([see chapter 5](#)).

## 1.2 Purpose of this guidance

This guidance is issued for use by licensing authorities in England and Wales. Equivalent guidance will be issued for the relevant licence issuing bodies in Scotland and Northern Ireland.

Licensing authorities are under a duty not to issue licences to people who are disqualified by their immigration status from holding them. In determining whether someone is disqualified, licensing authorities are under a statutory duty to have regard to this guidance.

The requirement to check the immigration status of licence applicants does not amend or replace the existing 'fit and proper' person test that licensing authorities must perform; this includes the obtaining of a Certificate of Good Conduct for applicants who have resided abroad for a period of time.

## 1.3 Who is disqualified from holding a licence?

A person is disqualified from holding an operator or a PHV or taxi driver licence by reason of their immigration status if:

- the person requires leave to enter or remain in the UK and has not been granted it; or
- the person's leave to enter or remain in the UK
  - is invalid,
  - has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time, or otherwise), or
  - is subject to a condition preventing the person from doing work of that kind.

A person is also disqualified from holding a licence if they are subject to a condition on their permission to be in the UK preventing them from holding licence, for example, they are subject to an immigration restriction that does not permit them to work.

## 1.4 For whom is this guidance relevant?

**This guidance applies to applications and requests to renew or extend a current licence sent to licensing authorities on or after 1 December 2016.**

It should be used by licensing authority staff responsible for the issue, renewal, suspension and revocation of operator or PHV or taxi driver licences.

These provisions only apply to the applicant and do not apply to the MOT or other vehicle check. They also do not apply to a DVLA or DVA driver's licence, although the [Immigration Act 2014](#) and the 2016 Act introduced provisions regarding the issue and revocation of such licences in respect of illegal migrants and, upon commencement, will provide, through [section 44](#) of the 2016 Act, a new criminal offence of driving illegally in the UK.

## 1.5 When will this guidance be relevant?

The checking requirements are not retrospective. Licensing authorities do not have to check the immigration status of those people who already hold a licence which was issued before 1 December 2016, or who sent their licence application to the licensing authority before this date. The check must be performed when the applicant first applies i.e. sends the application for a licence to the licensing authority or first applies to renew their licence or extend their licence on or after 1 December 2016. A postmark may be acceptable evidence of date of application.

For those who have time-limited permission to be in the UK, the check must be repeated at each subsequent application to renew or extend the licence until such time as the applicant demonstrates that they are entitled to remain indefinitely in the UK, and as a result, there are no restrictions on their ability to work. The documents referred to in the list of acceptable documents in [Annex A](#) will indicate whether the individual has temporary permission to be in the UK or is entitled to remain indefinitely and work in the UK. The list of acceptable documents is explained further in [section 3](#).

## 1.5 How should this guidance be used?

This guidance sets out what licensing authorities need to know about their legal duty not to issue a licence to a person who is disqualified from holding one because of that person's immigration status. It sets out how licensing authorities should discharge this duty by conducting document checks. It explains on whom a licensing authority needs to make checks, when, and how to do the checks correctly.

## 1.6 References in this guidance

References to 'we' or 'us' in this guide are to the Home Office. References to 'you' and 'your' are to the licensing authority.

'Days' means calendar days, i.e. including Saturdays, Sundays and bank holidays.

'A current document' means a document that has not expired.

## 2. Right to a licence check

### 2.1 What does 'right to a licence' mean?

For the purposes of this guidance, 'a right to a licence' means that someone is not disqualified by their immigration status from holding an operator or a PHV or taxi driver licence. There may be other reasons why you may be prohibited from issuing a licence, which still stand. This guidance does not relate to these other reasons, for example, the fit and proper person test.

For all operator and PHV and taxi driver licence applications made (sent) on or after 1 December 2016, you must comply with the legal requirement not to issue a licence to someone who is disqualified from holding the licence by reason of their immigration status. You must discharge this duty by requiring the applicant to submit one of a number of prescribed documents which show that the applicant has permission to be in the UK and undertake work as an operator or PHV or taxi driver. The check must be performed when the applicant first applies for a licence or first applies to renew or extend their licence, whether for the full statutory term or for a lesser period, on or after 1 December 2016. For those who have time-limited permission to be in the UK, you must repeat the check at each subsequent application to renew or extend the licence until such time as the applicant demonstrates that they are entitled to remain indefinitely in the UK. The documents referred to in the list of acceptable documents in [Annex A](#) will indicate whether the individual has temporary permission to be in the UK or is entitled to remain indefinitely in the UK. The list of acceptable documents is explained in [section 3](#).

You must be satisfied that the person is not disqualified from holding a licence **before** you issue a licence to that person.

Checking a person's documents to determine if they can hold the licence comprises **three key steps**:

1. **Obtain** the person's original document(s);
2. **Check** the document(s) in the presence of the applicant; and
3. Make and retain a clear **copy** of the document(s).

You can find detailed information on how to correctly conduct right to a licence checks and a list of acceptable documents later in this guidance. You are responsible for conducting the visual inspection of the document(s) presented to you.

### 2.2 Why do you need to do checks?

Licensing authorities have a legal duty not to issue operator or PHV or taxi driver licences to people disqualified by their immigration status from holding them, in order to prevent illegal working in the private hire vehicle and taxi sector. In order to discharge this duty, this guidance requires you to conduct document checks as part of the licence application process.

The checks should establish whether or not an applicant has a lawful immigration status in the UK, or is prohibited from working because they are in the UK illegally, or is subject to a condition that prevents them from holding a licence.

## 2.3 Who do you conduct checks on?

You should conduct 'right to a licence' checks in accordance with [section 3](#) of this guidance on **all** applicants for operator or PHV or taxi driver licences. This means you should ask all applicants for such licences to provide you with one of the original documents/combination of documents set out at [Annex A](#) to this guidance.

To ensure that you do not discriminate against anyone, you should treat all licence applicants in the same way when they first apply on or after 1 December 2016 during the licence application process. This will also demonstrate a fair, transparent and consistent application process. You should not make assumptions about a person's right to work in the UK or their immigration status on the basis of their nationality, ethnic or national origin, accent, the colour of their skin, or the length of time they have been resident in the UK.

## 2.4 When do you conduct checks?

The immigration checks have been developed to fit within the existing licensing regimes and to keep the additional requirements and burdens to a minimum. Accordingly, you should incorporate the right to a licence check into your existing application process at any point before a decision is made on the application. The check could be carried out, for example, when the applicant first lodges their application, or at a subsequent interview. Your guidance to applicants should make clear when the check will be performed in order that the applicant may submit the necessary documents at the appropriate time.

You may need to amend your application forms to include a declaration stating that the applicant has to have the correct immigration status to apply for the licence, that they must provide to you immigration status documents in line with [Annex A](#) in order for their application to be considered valid and that they understand that the licence will lapse if they are no longer entitled to work in the UK. The application form or supporting guidance should state which document or documents must be submitted by the applicant (as set out in [Annex A](#)) and when and indicate that you may check their immigration status with us. The right to work check will be conducted by you during a face to face meeting with the applicant.

The declaration itself can be a succinct statement, such as:-

*'Your right to work in the UK will be checked as part of your licence application, this could include the licensing authority checking your immigration status with the Home Office. We may otherwise share information with the Home Office. You must therefore provide a document or document combination that is stipulated as being suitable for this check. The list of documents is set out at [guidance link]. You must provide the original document(s), such as your passport or biometric residence permit, as indicated in the published guidance, so that the check can take place. The document(s) will be copied and the copy retained by the licensing authority. The original document will be*

*returned to you. Your application will not be considered valid until all the necessary information and original document(s) have been produced and the relevant paid has been paid.*

*If there are restrictions on the length of time you may work in the UK, your licence will not be issued for any longer than this period. In such circumstances the check will be repeated each time you apply to renew or extend your licence, If, during this period, you are disqualified from holding a licence because you have not complied with the UK's immigration laws, your licence will lapse and you must return it to the licensing authority. Failure to do so is a criminal offence.'*

If the applicant fails to provide document(s) specified in [Annex A](#) that demonstrate a right to a licence in accordance with your published application process, you should consider whether to offer a further opportunity to provide the documents before rejecting the application, if your usual process allows this.

## **2.5 When does a migrant's status come to an end?**

Migrants who are subject to UK immigration control may be granted permission to enter or remain in the UK, with a condition permitting employment, on a time-limited basis or on an indefinite basis. When the person's stay is time limited, this will be shown in their immigration documentation. It is possible for a migrant to apply to extend their stay, and if they do so before their previous status expires, they continue to have any right to work that they previously had while their application and any associated administrative review or appeal are outstanding. In such cases, a person's status may be confirmed by you contacting the Home Office's Evidence and Enquiry Unit.

## 3. How do you conduct checks?

### 3.1 Three-step check

There are three basic steps to conducting a right to work check. Remember three keywords:

1. **Obtain**
2. **Check**
3. **Copy**

#### Illustration 1: Summary of a right to a licence check



#### **Obtain**

**Obtain** original versions of one or more acceptable documents.



#### **Check**

**Check** the document's validity in the presence of the holder



#### **Copy**

make and retain a clear **copy**.

Illustration 2 explains in more detail what you need to do in each of the three steps to correctly conduct a check.

## Illustration 2: The Three-Step Check

### Step 1 Obtain

You must obtain **original** document(s) from either [List A](#) or [List B](#) of acceptable documents at [Annex A](#).

### Step 2 Check

You must **check** that the document(s) are genuine and that the person presenting them is the licence applicant, the rightful holder of the document(s), and not disqualified from obtaining a licence. You must check:

- photographs and dates of birth are consistent across documents and with the person's appearance in order to detect impersonation;
- expiry dates for permission to be in the UK have not passed;
- any work restrictions to determine if the applicant is prohibited from holding a licence;
- the documents are genuine, have not been tampered with and belong to the holder; and
- the reasons for any difference in names across documents (e.g. original marriage certificate, divorce decree absolute, deed poll). These supporting documents should also be photocopied and a copy retained.

Guidance on examining and identifying fraudulent identity documents may be found [here](#). A checklist which may assist you is at [Annex B](#) of this guidance.

### Step 3 Copy

You must make a **clear copy** of each document checked and retain these copies securely, with other licence application documents. If you do not retain the copy, you will have to repeat the check if someone permitted to remain indefinitely in the UK applies to renew or extend their licence. You should copy:

- **Passports:** any page with the document expiry date, the holder's nationality, date of birth, signature, immigration permission expiry date, biometric details, photograph and any page containing information indicating the holder has an entitlement to enter or remain in the UK and is not prohibited by their conditions of work from holding the licence.
- **All other documents:** the document in full, including both sides of a Biometric Residence Permit and a Residence Card (biometric format).



## Step 1: Obtain acceptable documents

### Lists of acceptable documents for checks

You must undertake a document check in respect of every application for a new licence or to renew, or extend an existing licence, which is made on or after 1 December 2016. Once you have done this, you will only be required to undertake a further document check when the applicant subsequently applies to renew or extend their licence if they have time-limited immigration permission to be in the UK and work, unless you did not retain a copy of the document or documents which indicated that they have no restrictions on their right to stay and work in the UK.

The full range of the documents you may accept for checks is set out in two lists – List A and List B. These lists are contained in [Annex A](#) to this guidance. You will note that the lists contain more secure documents such as national passports, [biometric residence permits](#) and [residence cards \(biometric format\)](#) – these documents are preferred because they are more secure. Applicants may not hold these documents, so the list also contains other acceptable evidence of immigration status. Please note that a UK driver's licence **is not** evidence of lawful status and a right to work.

You must obtain an **original** document, or document combination, specified in one of these lists in order to comply with **step 1** of the 3-step check. This is because scanned and photocopied documents make forgeries less easy to identify.

**[List A](#) contains the range of documents which you may accept for a person who has a permanent right to remain in the UK.** This includes UK passports (which may have expired). Following the correct checks, you may grant a licence for a period of up to the maximum statutory period for that type of licence. This is because there are no limitations on the type of work the applicant can undertake, or for how long. When the applicant provides document(s) from List A and you have retained the copy, a further check will not be necessary when they subsequently apply to renew or extend their licence. If you do not retain the copy, you will have to repeat the check when they next apply to renew or extend their licence.

**[List B](#) contains the range of documents which may be accepted for a person who has a temporary right to be in the UK.** If you conduct the check correctly you may issue the licence for a period up to the expiry date of the person's leave indicated by the document, although this must not exceed the maximum statutory period for which such a licence may be issued. You will need to request the original document and check these on each occasion that the applicant subsequently applies to renew or extend their licence until such time as the applicant provides document(s) from [List A](#) that demonstrates that they have a permanent right to remain in the UK.

A number of the documents in the list will only demonstrate a right to a licence if the document is current when the check takes place, including passports issued



outside the [European Economic Area](#) which are endorsed to say that the holder has indefinite leave to remain (ILR) in the UK. Provided the passport endorsed with ILR is current when the check takes place, a licence may be granted up to the statutory maximum even though the passport might time-expire before the licence time-expires. If the passport which is endorsed with ILR is not current when the check takes place, you may invite the applicant to apply to the Home Office for a [biometric residence permit](#). Further information on this application is contained [here](#). Once the application has been made, you may verify this check through the Evidence and Enquiry Unit and, once successfully verified, grant the licence for a maximum period of six months from the date of the verification.

Some documents, such as British passports, do not have to be current in order to demonstrate a right to a licence. However, you still need to check carefully that the document relates to the applicant and, if necessary, request further evidence before issuing the licence. [Annex A](#) clearly indicates which documents must be current to demonstrate the right to a licence.

## Biometric Residence Permits

For most non-European Economic Area (non-EEA) migrants granted permission to be in the UK, the document you are likely to see to demonstrate a right to work is a Biometric Residence Permit (BRP). The Home Office began issuing BRPs in November 2008. Since July 2015, BRPs have been the only evidence of lawful residence currently issued by the Home Office to most non-EEA nationals and their dependants granted permission to remain in the UK for more than six months.

BRPs are credit-card sized immigration documents that contain a secure embedded chip and incorporate sophisticated security safeguards to combat fraud and tampering. They provide evidence of the holder's immigration status in the UK including the date on which the person's entitlement to work in the UK is due to expire. In most cases, this will be the expiry date of the BRP. However, where the BRP indicates that a person has indefinite leave to enter or remain (ILE or ILR) in the UK, this means that there is no time limit on the holder's ability to live and work in the UK (although the BRP itself is valid for 10 years) after which the holder needs to apply for a replacement). BRPs contain the holder's unique biometric identifiers (fingerprints and digital photo) within the chip, are highly resistant to forgery and counterfeiting, display a photo and biographical information on the face of the document and details of entitlements, such as access to work and/or public funds. BRPs therefore provide you with a secure and simple means to conduct a right to a licence check.

Migrants overseas granted permission to enter the UK for more than six months are issued with a vignette (sticker) in their passport, which will be valid for 30 days, to enable them to travel to the UK. Following their arrival, they will have 10 days or before their vignette expires (whichever is the later) to collect their BRP from the Post Office branch detailed in their decision letter. You should not issue the licence on the basis of the 30 day vignette, but wait until you have seen and checked the related BRP.



An example of a BRP: front and back

## Residence cards (biometric format)

From 6 April 2015, we started issuing Residence Cards (including Permanent Residence Cards and Derivative Residence Cards) for non-EEA family members of EEA and Swiss nationals in a biometric format. From this date, we stopped issuing a vignette in the passport or standalone document, though these will continue to be acceptable documents for the purpose of right to work checks, as long as they are valid. The new Residence Cards (biometric format) closely resemble Biometric Residence Permits as indicated above.

## Step 2: Check the validity of document(s)

You should check the validity of the **original** document(s), in the presence of the holder. This may be the physical presence of the applicant or by live video conference. In the event that it is not possible for the applicant to attend in person, you must have the original document(s) at the time you conduct the check against the person by video. Therefore, the document will need to be sent by secure mail or delivered by hand to you beforehand so that it can be checked against the holder. This is to safeguard against a document being presented by someone to whom it does not belong.

Where a person presents a document and it is reasonably apparent that the person presenting the document is not the person referred to in that document, even if the document itself is genuine, you should not accept it as evidence of lawful immigration status and, therefore, the applicant's right to hold a licence.

Some documents, such as UK birth certificates, do not include a photograph. You may consider requesting and checking additional documentary evidence of the person's identity, for example their DVA or DVLA licence. You may accept a UK birth certificate issued by the General Register Office even though it has been endorsed as being "certified to be a true copy of an entry in a register in my custody" or contain words to the same effect.

Guidance on checking documents has been made available to employers, including local authorities as employers, who have a duty to undertake right to work checks on their employees. You may find this helpful and it is available [here](#). Guidance on examining and identifying fraudulent identity documents may be

found [here](#). This contains a helpful checklist which has been reproduced in [Annex B](#).

You must perform the check carefully. You must make a visual inspection of the original document, and then check the details and any photograph of the holder against the holder to identify reasonably apparent forgeries and imposters.

You are not required to use artificial aids, such as an ultra violet lamp or a magnifying glass, although you will find such aids useful when performing the check. You may also wish to consider using a commercially available document scanner to help check the authenticity of biometric documents presented to you, notably passports and biometric residence permits (BRPs). Guidance about using such technology is available at [this link](#).

If someone gives you a false document or a genuine document that does not belong to them, you may use this link to [report the individual to the Home Office](#). You may also contact [Crimestoppers](#).

You may obtain further assistance on document types from your Local Partnership Manager (LPM) or email [I&SDLPMSsupportTeam@homeoffice.gsi.gov.uk](mailto:I&SDLPMSsupportTeam@homeoffice.gsi.gov.uk). In most cases, your LPM or your local Immigration, Compliance and Enforcement (ICE) team will also be your first point of contact if you suspect that you have encountered a forged or counterfeit document (though they are unable to respond to requests for immigration status checks. Please see [section 3.2](#) below).

### Step 3: Retain a copy of document(s)

You should keep a copy of every document you have checked. This could be a hard or an electronic copy. You should keep the copy securely in accordance with data protection principles. Provided the specified document or documents are in [List A](#), if you retained the copy, you will not have to repeat the check when the licence holder subsequently applies to you to renew or extend their licence.

## 3.2 Home Office verification checks

In most cases, you should be able to make an assessment that the person is not disqualified from holding a licence by making a visual check of the document(s) against the person presenting them. This will include all cases where the applicant is a British citizen.

If you require an immigration status check, you may contact the Home Office's Evidence and Enquiry Unit. Your Local Partnership Manager will have their contact details. The Evidence and Enquiry Unit will aim to respond to your request within 10 working days.

It is only necessary to contact the Home Office's Evidence and Enquiry Unit in the following circumstances to verify that someone has the right to hold a licence:

1. You are presented with a [Certificate of Application](#) which is less than six months old and indicates that work is permitted; or

2. You are satisfied that you have not been provided with any acceptable documents because the person has an outstanding application for permission to remain in the UK with the Home Office which was made before their [previous immigration leave expired](#) or has an appeal or [administrative review](#) pending against a Home Office decision that grants them a right to work and, therefore, cannot provide to you evidence of their right to a licence.

In these two circumstances, the Evidence and Enquiry Unit will confirm the individual's immigration status. You will still have to determine whether the applicant should be granted a licence. A licence issued as a consequence of this check must be limited, as indicated below, to a maximum period of **six months**. Upon any subsequent application to renew the licence, you must carry out a further document check before issuing the licence. You are prohibited by statute from issuing a licence if a person is disqualified by their immigration status.

If you are making a check because the licence applicant has an outstanding immigration application with the Home Office, or a pending appeal or administrative review against a Home Office decision, we suggest that you wait at least **14 days** after the application, appeal or administrative review was made before requesting the Evidence and Enquiry Unit to confirm the status. This is to allow time for that application, appeal or administrative review to be registered with the Home Office.

## 3.4 Duration of licences

If a person provides you with acceptable documents from [List A](#) at [Annex A](#), there is no restriction on their right to work in the UK so their immigration status does not prevent you from issuing them a licence for up to the statutory maximum period. Provided you retained a copy of the document or documents that were originally checked, you will not be required to repeat the check when the applicant applies to renew or extend their licence with you.

If a person provides you with acceptable document(s) from [List B](#), this means that there are restrictions on their right to live and work in the UK. Their licence must not be issued for a period that exceeds their permission to be in the UK (up to the statutory maximum period for that type of licence).

When the licence has been issued on the basis of a Certificate of Application which states that work is permitted and which has been verified by our Evidence and Enquiry Unit, the licence may only be issued for a maximum period of six months from the date of the Certificate of Application.

When the licence has been issued on the basis that the applicant has an outstanding in-time<sup>4</sup> Home Office application, appeal or administrative review which has been verified by our Evidence and Enquiry Unit, the licence may be issued for a maximum period of six months from the date of the licence decision.

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<sup>4</sup> An in-time application is one that was submitted before the applicant's earlier immigration permission to be in the UK expired, and so, by operation of statute, extends their permission until a decision has been made on the application.

## 3.5 When will a licence lapse?

A licence issued in respect of an application made on or after 1 December 2016, will lapse when the holder's permission to be in the UK comes to an end. This could be because their permission to be in the UK has time-expired or because we have brought it to an end (for example, we have curtailed their permission to be in the UK). You are under no duty to carry out on-going immigration checks to see whether a licence holder's permission to be in the UK has been brought to an end. The migrant will be aware when their time limited permission has come to an end and we will inform them if we curtail their permission to be in the UK.

## 4. Eligibility of certain categories of migrant to hold licences

It is important to determine that an applicant for a licence is not only in the UK lawfully and has permission to work, but that they are not prevented from undertaking work as a taxi operator or driver.

The following section provides clarification on several specific immigration categories. If you require further advice in relation to these or other immigration categories, you may contact your Local Partnership Manager.

### 4.1 Tier 1: Entrepreneur

A person granted leave to enter or remain in the UK as a Tier 1 (Entrepreneur) migrant, is prohibited from engaging in employment except where they are working for the business which they have established, joined or taken over. They will comply with this restriction if, for example, they are employed as the director of the business in which they have invested, or if they are working in a genuinely self-employed capacity. They may not, however, be considered to be working for their own business if the work they undertake amounts to no more than employment by another business (for example, where their work is no more than the filling of a position or vacancy with, or the hire of their labour to that business, including where it is undertaken through engagement with a recruitment or employment agency). In this capacity, they would have a contract of service. This applies even if it is claimed that such work is undertaken on a self-employed basis.

You must therefore be satisfied that the applicant is genuinely engaged in running their own business as a taxi operator or driver. You should consider requesting evidence of an applicant's appropriate registration of their business or for self employment with HM Revenue and Customs as part of the consideration of any application. If an applicant is deemed to be effectively an employee and the business is not their own, their application should be rejected.

For more information, please see the policy guidance for Tier 1 (Entrepreneur) on [GOV.UK](https://www.gov.uk).

### 4.2 Tier 2: Skilled workers

A person granted immigration leave under Tier 2 as a Skilled Worker is granted permission to work for a specified employer (a sponsor) in a specified capacity. It is unlikely they would qualify for a licence in this sector. A dependant of a Tier 2 migrant may qualify for a licence, as the same restrictions do not apply.



## 4.3 Tier 4: Students

A Tier 4 student may have permission to work for a limited number of hours during term time whilst studying in the UK, and full time during holidays. There are restrictions in place as to who is eligible to work and this will be indicated in their BRP or passport vignette. This right to work will be dependent on them continuing to follow their course of study. They cannot be self-employed, but they may, however, qualify for a licence if directly employed. Where a Tier 4 student has completed their course, they are only able to work if they were initially given permission to work as part of their conditions as a student, until that permission expires or otherwise comes to an end.

## 4.4 Asylum seekers

Asylum seekers do not usually have permission to work and when they do, this is only in a [shortage occupation](#) which will not involve the PHV and taxi sector and therefore they must not be granted a licence if their application is made on or after 1 December 2016.

An Application Registration Card (ARC) is provided to a person who has claimed asylum in the UK, pending consideration of their case. An ARC may exceptionally state that the holder has a right to work, but this will only be in a shortage occupation. You must not grant a PHV or taxi operator or driver licence on the basis of the ARC. However, you should check whether the asylum seeker has alternative evidence of a right to hold a licence.

A person who has been recognised by the UK as a refugee is issued with a BRP and has no restrictions on their right to work in the UK whilst their BRP remains valid.

## 4.5 Nationals from the European Economic Area (EEA)

[EEA and Swiss nationals](#) have the right to work in the UK. However, you should not issue a licence to any individual simply on the basis that they claim to be an EEA national. You should also be aware that not all EEA nationals are permitted to work in the UK without restrictions (please see separate [guidance](#) in respect of Croatian nationals). You should require any person who claims to be an EEA national to produce a valid EEA passport or EEA national identity card that confirms that they are a national of an EEA country or Switzerland.

## 4.6 Non-EEA Family Members of EEA nationals

Non-EEA nationals who are the direct family members of an EEA (or Swiss) national who is exercising European Union Treaty rights or has permanent residence, are also entitled to live and work in the UK. You should not grant a licence to any individual simply on the basis that they claim to be the family member of an EEA national. You should also be aware that not all family members of EEA nationals are permitted to work in the UK.

There is no mandatory requirement for non-EEA nationals who are resident in the UK as a family member of an EEA national to register with the Home Office or to obtain documentation issued by the Home Office.

Consequently, it is open to any non-EEA national who has an enforceable EU law right to work in the UK - as a direct family member of an EEA national or by virtue of a derivative right of residence - to demonstrate the existence of that right through means other than those documents in [Annex A](#).

In such cases, you may choose to accept such alternative evidence. You should ask to see the following:

- evidence of the applicant's own identity – such as a passport,
- evidence of their relationship with the EEA family member – e.g. a marriage certificate, civil partnership certificate or birth certificate, and
- evidence that the EEA national has a right of [permanent residence in the UK](#) or is one of the following if they have been in the UK for more than 3 months:
  - (i) working e.g. employment contract, wage slips, letter from the employer,
  - (ii) self-employed e.g. contracts, invoices, or audited accounts with a bank,
  - (iii) studying e.g. letter from the school, college or university and evidence of sufficient funds, or
  - (iv) self-sufficient e.g. bank statements.

For family members of EEA nationals who are studying or financially independent you must also see evidence that the EEA national and any family members hold comprehensive sickness insurance in the UK. This can include a private medical insurance policy, an EHIC card or an S1, S2 or S3 form.

You must only accept original documents as evidence.

In the event that a non-EEA national is found not to qualify to work in the UK you will have issued a licence which is invalid.

## 4.7 Croatian nationals

Croatian nationals' access to the UK labour market are subject to transitional arrangements set out in the [Accession of Croatia \(Immigration and Worker Authorisation\) Regulations 2013](#). Under these Regulations, a Croatian national who wishes to work in the UK and who is subject to the worker authorisation requirement will need to obtain an accession worker authorisation document (permission to work) before starting any employment.

This means that since 1 July 2013, a Croatian national will only be able to work in the UK if they hold a valid accession worker authorisation document (such as a purple registration certificate) or if they are exempt from work authorisation. The list of exempt categories is contained in our [guidance](#).



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Croatian students who have been issued with a yellow registration certificate are only permitted to work for 20 hours a week during term time and full time during the holidays.

## 5. Revocation of licences

We may provide you with information, or you may obtain information from other sources, which will cause you to wish to suspend or revoke a licence on the basis that the licence holder's immigration status has changed on or after 1 December 2016, for example their permission to be in the UK has been curtailed, they have been served with a deportation order or they have been convicted of an immigration offence (generally, but not limited to, convictions under the Immigration Act 1971) or subjected to an immigration penalty which has not been cancelled following an objection or appeal. An immigration penalty will have been issued, for example, because they employed an illegal worker or let premises to someone who does not have a right to rent. Please note that civil penalties may be issued to UK citizens as well as migrants who breach the relevant regulations.

On any appeal relating to an operator or driver licence decision whether it is to grant, revoke or suspend the licence, the court is not entitled to consider whether the licence holder should have been convicted of an immigration offence or received an immigration penalty or should have been granted by the Home Office permission to be in the UK. This is because separate rights of immigration appeal, or to have an immigration decision administratively reviewed, exist.

Upon receiving such information, you may also wish to consider whether the licence holder continues to meet the 'fit and proper' test.

### 5.1 Return of the licence

The licence holder is required to return the licence to you, once that licence has expired, or been suspended or revoked on immigration grounds. This is underpinned by criminal offences of failing to comply with the return requirement under existing taxi licensing legislation.

If the licence holder, without a reasonable excuse, fails within 7 days to return the licence, badge and any other evidence of identification issued by you to you, they commit an offence. The maximum fine is level 3 on the standard scale.

## 6. Providing information to the Home Office

These new provisions to prevent illegal working in relation to PHV and taxi operator and driver licences, do not specifically mandate licensing authorities to report to the Home Office cases in which you have refused an application for an operator or driver licence or subsequently suspended or revoked a licence on immigration grounds.

However, you are requested to provide the Home Office with this information, in order that other appropriate enforcement action may be taken against a person, including revoking their UK driving licence. This information exchange is supported by [section 55](#) of the Immigration Act 2016 which expands the existing information sharing gateway at [section 20](#) of the Immigration and Asylum Act 1999 (the 1999 Act) and gives public authorities a clear statutory authority to supply information or documents to the Home Office which may be used for immigration purposes. See: [Factsheet](#). Any information should be sent using the template at [Annex C](#) to [tphlicensing@homoffice.gsi.gov.uk](mailto:tphlicensing@homoffice.gsi.gov.uk).

In addition, section 20A of the 1999 Act, as amended by section 55 of the 2016 Act, places a duty on local authorities to provide Home Office immigration officials with nationality documents which are in their possession, but only when specifically requested to do so. See: [Factsheet](#). So you may be asked for copies of nationality documents which you have retained as part of the licensing application if they belong to someone who is liable for removal from the UK.

## 7. Do you have any questions?

In the first instance, please refer to this guidance. You may also wish to look at the further useful information provided in the existing illegal working guidance.

Employers already have a duty to do checks. However, as most PHV and taxi licence holders are self employed, their right to work and immigration status is not checked, so through these new provisions and this guidance we aim to prevent illegal working in this sector. When dealing with a licence application, you must check the immigration status of all applicants, including those who are not self employed.

The illegal working guidance is available at:

<https://www.gov.uk/government/publications/right-to-work-checks-employers-guide> and includes:

- [An employer's guide to the administration of the civil penalty scheme;](#)
- [An employer's guide to acceptable right to work documents;](#)
- [Frequently asked questions;](#)
- [Code of practice on preventing illegal working: Civil penalty scheme for employers;](#)
- [Code of practice for employers: Avoiding unlawful discrimination while preventing illegal working;](#)
- An employer's '[Right to Work Checklist](#)';
- The online interactive tool '[Employer Checking Service Enquiries](#)'; and
- The online interactive tool '[Check if someone can work in the UK](#)'.

Guidance on examining and identifying fraudulent identity documents may be found [here](#)

If you have questions about a person's immigration status, you may contact the Home Office's Evidence and Enquiry Unit.

Your Local Partnership Manager will be able to assist you if you with question about document types or if you suspect you have been provided with a forged document. They cannot confirm a person's immigration status.

## 8. Annex A

### Lists of acceptable documents for right to a licence checks

The lists of documents are based on those prescribed to show evidence of a right to work.

List A: No immigration restrictions on right to a licence in the UK. Once you have undertaken the necessary check once in respect of an application made on or after 1 December 2016, if you retained the copy, you will not have to repeat the check when they subsequently apply to renew or extend their licence.	
1.	A passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK.
2.	A passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
3.	A Registration Certificate or Document Certifying Permanent Residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
4.	A Permanent Residence Card issued by the Home Office to the family member of a national a European Economic Area country or Switzerland.
5.	A <b>current</b> Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
6.	A <b>current</b> passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
7.	A <b>current</b> Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, <b>together with</b> an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer. An example of an Immigration Status Document may be found <a href="#">here</a> .
8.	A <b>full</b> birth or adoption certificate issued in the UK which includes the name(s) of at least one of the holder's parents or adoptive parents, <b>together with</b> an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
9.	A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, <b>together with</b> an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
10	A certificate of registration or naturalisation as a British citizen, <b>together with</b> an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

**List B: Immigration restrictions on the right to a licence in the UK. You may issue the licence (subject to statutory limitations) up to the expiry date of the permission to work in the UK. You will need to check immigration status each time they make an application to renew or extend their licence.**

1. A **current** passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to do the type of work in question.
2. A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to do the work in question.
3. A **current** Residence Card (including an Accession Residence Card or a Derivative Residence Card) issued by the Home Office to a non-European Economic Area national who is a family member of a national of a European Economic Area country or Switzerland or who has a derivative right of residence.  
  
This guidance [[link to page 16](#)] provides further information on checking a non-European Economic Area national family member's right to a licence.
4. A **current** Immigration Status Document containing a photograph issued by the Home Office to the holder with a valid endorsement indicating that the named person may stay in the UK, and is allowed to do the type of work in question, **together with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

1. A Certificate of Application issued by the Home Office under regulation 17(3) or 18A (2) of the Immigration (European Economic Area) Regulations 2006, to a family member of a national of a European Economic Area country or Switzerland stating that the holder is permitted to take employment which is **less than 6 months old together with Verification** from the Home Office Evidence and Enquiry Unit. The licence may be granted for six months from the date of the Certificate of Application.
2. A **Verification** issued by the Home Office Evidence and Enquiry Unit to you, which indicates that the named person may stay in the UK because they have an in time application, appeal or administrative review and which is outstanding. The licence may be issued for six months from the date of the licence decision.

## 9. Annex B

### Checklist on examining and identifying fraudulent identity documents

	Cause for concern?	
	Yes	No
Does the document allow the person to live and work in the UK?		
Is the person presenting the document the same as the image or photograph?		
<b>Is the document genuine or counterfeit? Check for:</b>		
General quality/cover – Is it manufactured to a high standard?		
Watermarks – view the page with a light source, e.g. a torch or lamp		
UV reaction – If a UV light is available, check if the document reacts dull		
Random fibres – Are there random fibres on each of the document's pages?		
Print quality – Is the quality of the print of a high standard (no dots)?		
Intaglio ink on inside cover of passports – Is there raised ink on the document?		
Optically variable ink – Move the document under a light source		
Machine readable zone (font) – If available, use an online MRZ checker		
Holographic devices – Move the document under a light source		
<b>Have any pages been substituted? Check for:</b>		
Construction / page alignment / page numbers / page design		
Counterfeit pages (see above)		
<b>Has the photograph / image been substituted? Check for:</b>		
Damage around the photograph / image		
Any safeguards over photograph / image e.g. ink stamp, emboss, laminate		
Correct image type		
Evidence of a second laminate – move the document under a light source		
<b>Have any details been altered? Check for:</b>		
Damage to paper around details e.g. date of birth		
<b>Is the document a fantasy / pseudo document? – Can you find in on the <a href="#">PRADO</a> or <a href="#">EDISON</a> websites?</b>		

## **Glossary of terms used in Annex B.**

**Background print** – Areas on secure documents which are printed to a high standard. Using magnification, solid lines and detailed designs should be visible.

**Intaglio Ink** – A printing process which results in the ink having a raised and rough feel and which is found on the inside of most (not all) passports. It often involves a hidden pattern, revealed when the page is viewed at an oblique angle.

**MRZ** – A machine readable zone which allows for optical character recognition of characters which match a specific font.

**Optically Variable Ink** – A clear colour change from one colour to another which should be seen when the document is tilted.

**Random Fibres** – Security fibres which appear randomly across the paper. They can be visible to the naked eye or react when exposed to UV light.

**Watermark** – Created during the paper manufacturing process by varying the thickness of paper. It should consist of subtle changes in tone and both lighter and darker areas.

Further guidance on examining identity documents and examples of these techniques may be found [here](#).



# 10. Annex C

## PHV and taxi licence referral form



### PHV and taxi driver/operator licence referral form

Please complete the below details and press submit to return to Immigration Enforcement

Licensing Authority Details	
Name	
Email	
Licensing Authority	
Date Referred	

Individual's details	
Home Office Reference (if known)	
Surname	
Forename(s)	
Gender	
Nationality	
Date of birth	
Other known names	
Last known address	
Postcode	
Contact number	
Driving licence number	
NI Number	
Document type presented	
Document number	

Action taken	
Driver or operator licence	
First application or renewal	
Licence denied or revoked	
Date	
If revoked, has the licence been returned?	

If email doesn't open after clicking button - check whether you see "Security Warning, Macros have been disabled." message above . If yes click options and enable this content.

Email form to the Home Office

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## **Policing and Crime Act 2017**

### **Provisions Affecting Licensing Functions**

#### **Taxi and Private Hire Licensing**

##### **Statutory Guidance on Protecting Children and Vulnerable Adults**

Section 177 of the Act provides that the Secretary of State may issue guidance to public authorities as to how their licensing functions under taxi and private hire vehicle legislation may be exercised so as to protect children, and vulnerable individuals who are 18 or over, from harm.

The Secretary of State is also empowered to revise this guidance and must publish any guidance or revision of it.

Any public authority which has licensing functions under taxi and private hire vehicle legislation must have regard to any guidance issued under this section.

Before issuing the guidance, the Secretary of State must consult with a range of stakeholders including the police, licensing authorities and representatives of taxi and private hire licence holders.

Section 177 was commenced on Royal Assent and it is anticipated that the Secretary of State will begin consultation on the draft guidance shortly.

#### **Alcohol, Entertainment and Late Night Refreshment Licensing**

##### **Meaning of “alcohol”: inclusion of alcohol in any state**

Section 135 amends the definition of “alcohol” provided in the Licensing Act 2003 to include alcohol “in any state.” This will mean powdered and vapourised alcohol will also be regulated under the Licensing Act 2003.

##### **Summary reviews: representations against interim steps**

A summary review is a “fast-track” licence review process that can be applied for by the Police in the case where a licensed premises is associated with serious crime and disorder.

Within 48 hours of receipt of a summary review application, the licensing authority must decide what interim steps, if any, to take pending the full review hearing, which must take place within 28 days.

Once the interim steps have been decided, a licence holder can make representations against the interim steps and the licensing authority then has to hold a hearing to consider these representations within 48 hours.

Currently there is no limit on the number of times a licence holder can make representations against the interim steps during the period before the full review hearing takes place.

This means that the licensing authority could have to hold a hearing every 48 hours if a licence holder made repeated representations against the interim steps imposed by the licensing authority.

Section 136 of the Policing and Crime Act 2017 puts in place a restriction so that licence holders will only be able to make further representations after their initial representations have been considered, if there has been a material change in circumstances since the consideration hearing.

## **Summary reviews of premises licences: review of the interim steps**

Following receipt of an application for a summary review, the hearing to review the premises licence must take place within 28 days of receipt of the application. The decision taken at the review hearing only comes into effect once the time limit for appealing (21 days) has expired or any appeal has been disposed of.

There is ambiguity in the 2003 Act about whether the interim steps remain in place during this period. This has resulted in licensed premises, closed due to serious problems, re-opening pending the outcome of an appeal.

There has been confusion for some time about the status of the interim steps imposed by the licensing authority after the full review hearing has taken place.

Section 137 of the Act will amend the Licensing Act 2003 so as to require the licensing authority to determine at the review hearing what interim steps should be in place pending the outcome of any appeal, or the expiry of the time limit for making an appeal. These arrangements will allow licensing authorities and the police to take effective enforcement action, and will be fairer for businesses. Licensees and the police will be able to appeal the interim steps to a magistrates' court.

## **Personal licences: licensing authority powers in relation to convictions**

Currently a personal licence may be suspended or forfeited by a court on conviction of a relevant offence. Relevant offences are listed in Schedule 4 to the 2003 Act and include violent and sexual offences, drugs offences and firearms offences. However, the evidence suggests that the courts are not routinely exercising their powers in this regard, often because they are not aware that an offender holds a personal licence.

Section 138 will allow licensing authorities to suspend or revoke a licence. Courts will retain their existing powers. Where a licensing authority decides to suspend or revoke a licence, the licence holder will have the opportunity to make representations to the licensing committee, and will have a right to appeal to a magistrates' court.

## **Licensing Act 2003: addition of further relevant offences**

Conviction for a relevant offence can be grounds for refusing a new personal licence, or for suspending or revoking an existing licence. Currently, there are some serious offences which are not included in the definition of "relevant offence". The following offences will be added to the definition by section 139:

- the sexual offences listed in Schedule 3 to the Sexual Offences Act 2003;
- the violent offences listed in Part 1 of Schedule 15 to the Criminal Justice Act 2003;
- the manufacture, importation and sale of realistic imitation firearms contrary to section 36 of the Violent Crime Reduction Act 2006;
- using someone to mind a weapon contrary to section 28 of the Violent Crime Reduction Act 2006; and
- the terrorism-related offences listed in section 41 of the Counter-terrorism Act 2008.

## **Licensing Act 2003: guidance**

Section 182 of the 2003 Act requires the Secretary of State to issue guidance to licensing authorities on the discharge of their functions under the Act, and that the guidance be laid before Parliament and be subject to the negative resolution procedure every time it is updated. The licensing framework has been in place for ten years, and in that time changes to the guidance have not been subject to parliamentary debate. The requirement to lay revised guidance before Parliament is therefore considered unnecessary and at odds with many other statutory guidance provisions.

As a result of section 140 of the Policing and Crime Act 2017, the Secretary of State will no longer have to lay the s.182 guidance before Parliament for approval before it comes into effect.

## **Cumulative Impact Policies**

Cumulative Impact Policies (CIPs) allow licensing authorities to limit the number or type of licence applications (e.g. bars or off-licences) granted in areas where they can demonstrate that the number or density of premises in that area is adversely impacting on the statutory licensing objectives under the Licensing Act 2003.

There are currently over 200 CIPs in place but they have no statutory basis. Not all licensing authorities are making effective or consistent use of CIPs and the licensed trade has concerns about the transparency of the process and quality of evidence used to restrict new businesses.

Section 141 of the Policing and Crime Act 2017 will amend the Licensing Act 2003 and put CIPs on a statutory footing while introducing a requirement on licensing authorities to review the evidence on which CIPs are based at least every three years - more frequently than under the current system, where the SOLP review determines that the evidence for CIPs will be examined at least once every five years.

## **Late night levy requirements**

The Late Night Levy (LNL) was introduced under the Police Reform and Social Responsibility Act 2011 to enable licensing authorities to collect a financial contribution from businesses selling alcohol late at night and to put the funds raised towards policing and other costs associated with the management of the night time economy.

Currently the legislation requires that at least 70% of the net revenue from the levy (minus administration costs) must go to the Police and Crime Commissioner (PCC) who then determines how to direct the funds.

The legislation requires that if implemented, the LNL must apply to the entire licensing authority area (subject to exemptions). Licensing authorities have discretion to make exemptions for New Years Eve and for certain categories of premises such as bingo halls, community premises, country village pubs and businesses that already contribute financially as part of a Business Improvement District (BID).

The LNL has not been widely implemented and has been subject to criticism from police, licensing authorities and the licensed trade.

The police and licensed trade have indicated that the LNL in its current form is inflexible and licensing authorities feel that they are not able to target businesses that place demands on the police in the night time economy. This is reported to be one of the major reasons why very few LNLs have been introduced. The licensed trade has also raised concerns around the lack of transparency in how LNL revenue is spent. The PCC working group on alcohol has stated that PCCs do not feel they have a strong enough role in consideration of a levy in their area.

# Agenda Item 4

Section 142 and Schedule 18 of the Policing and Crime Act 2017 seek to make the LNL more flexible, allowing authorities to introduce the LNL in for example specific parts of a town rather than having to introduce it for the whole of the local authority area as is the case currently.

There will be greater transparency, however, with licensing authorities being required to publish information on how the funds raised by the LNL are spent.

One of the key changes is that the LNL will be extended to also apply to premises that are permitted to offer late night refreshment, for example takeaways (the LNL currently only applies to premises selling alcohol). Premises only serving hot non-alcoholic drinks are excluded.

PCCs will also be given a statutory right to request that consideration is given by a licensing authority to implementing a LNL in their area. Such a request must be then given consideration by the licensing authority and the response to the request must be published. This published response must include reasons, including an explanation of the outcome of the authority's considerations.

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# Access for wheelchair users to Taxis and Private Hire Vehicles

## Statutory Guidance

**Moving Britain Ahead**

The Department for Transport has actively considered the needs of blind and partially sighted people in accessing this document. The text will be made available in full on the Department's website. The text may be freely downloaded and translated by individuals or organisations for conversion into other accessible formats. If you have other needs in this regard please contact the Department.

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## Ministerial Foreword



This Government is committed to ensuring that transport works for everyone, including disabled people. Since joining the Department for Transport in 2015, and taking on Ministerial responsibility for transport accessibility, I have made it my mission to challenge the status quo and encourage innovative thinking to improve access to transport across the modes.

I know however, that despite the real improvements which have taken place in recent years, some disabled passengers still face discrimination when attempting to travel. I am clear that this is unacceptable.

Owners of assistance dogs are already protected by provisions in the Equality Act 2010 which make it unlawful to refuse or charge them extra. I want similar protections to apply to wheelchair users, which is why I am delighted that we have commenced the remaining parts of sections 165 and 167 of the Equality Act 2010, making it a criminal offence for drivers of designated taxi and private hire vehicles to refuse to carry passengers in wheelchairs, to fail to provide them with appropriate assistance, or to charge them extra. I hope that in so doing we will send a clear signal to the minority of drivers who think it acceptable to discriminate on grounds of disability that such behaviour will not be tolerated – and, more importantly, to enable wheelchair users to travel with confidence.

A handwritten signature in blue ink that reads "Andrew Jones". The signature is written in a cursive, flowing style.

**Andrew Jones MP,  
Parliamentary Under Secretary of State, Department for Transport**

## 1. Introduction

### Status of guidance

- 1.1 This guidance document has been issued in order to assist local licensing authorities (LAs) in the implementation of legal provisions intended to assist passengers in wheelchairs in their use of designated taxi and private hire vehicle (PHV) services. It provides advice on designating vehicles as being wheelchair accessible so that the new protections can apply, communicating with drivers regarding their new responsibilities and handling requests from drivers for exemptions from the requirements.
- 1.2 This is a statutory guidance document, issued under section 167(6) of the Equality Act 2010 and constitutes the Secretary of State's formal guidance to LAs in England, Wales and Scotland on the application of sections 165 to 167 of the Equality Act 2010. LAs must have regard to this guidance document.

## 2. Putting the law into practice

### Background

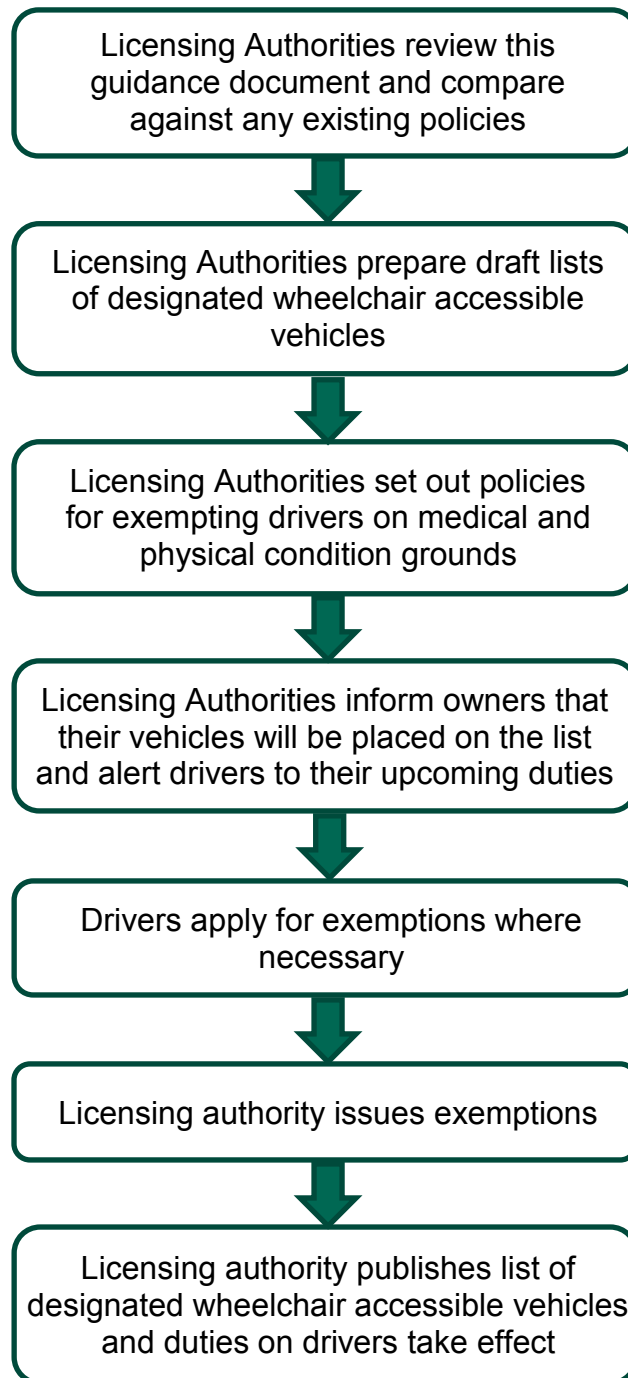
- 2.1 We have commenced sections 165 and 167 of the [Equality Act 2010](#) (“the Act”), in so far as they were not already in force. Section 167 of the Act provides LAs with the powers to make lists of wheelchair accessible vehicles (i.e. “designated vehicles”), and section 165 of the Act then requires the drivers of those vehicles to carry passengers in wheelchairs, provide assistance to those passengers and prohibits them from charging extra.
- 2.2 The requirements of section 165 do not apply to drivers who have a valid exemption certificate and are displaying a valid exemption notice in the prescribed manner. An exemption certificate can be issued under section 166 of the Act, which is already in force. This allows LAs to exempt drivers from the duties under section 165 where it is appropriate to do so, on medical grounds or because the driver’s physical condition makes it impossible or unreasonably difficult for them to comply with those duties.
- 2.3 On 15<sup>th</sup> September 2010, the Department for Transport issued guidance on the Act which stated, in relation to section 167, *“although the list of designated vehicles will have no actual effect in law until the duties are commenced, we would urge licensing authorities to start maintaining a list as soon as possible for the purpose of liaising with the trade and issuing exemption certificates”*.
- 2.4 We therefore recognise that many LAs have already implemented some of these provisions, including publishing lists of wheelchair accessible vehicles and exempting drivers. Therefore, there are likely to be a range of approaches being used in practice by LAs across England, Wales and Scotland.

### Transitional arrangements

- 2.5 We want to ensure that the commencement of sections 165 and 167 of the Act has a positive impact for passengers in wheelchairs, ensures they are better informed about the accessibility of designated taxis and PHVs in their area, and confident of receiving the assistance they need to travel safely.
- 2.6 But we recognise that LAs will need time to put in place the necessary procedures to exempt drivers with certain medical conditions from providing assistance where there is good reason to do so, and to make drivers aware of these new requirements. In addition, LAs will need to ensure that their new procedures comply with this guidance, and that exemption notices are issued in accordance with Government regulations. This will ensure that we get a consistent approach and the best outcomes for passengers in wheelchairs.
- 2.7 As such, we would encourage LAs to put in place sensible and manageable transition procedures to ensure smooth and effective implementation of this new law. LAs should only publish lists of wheelchair accessible vehicles for the purposes of

section 165 of the Act when they are confident that those procedures have been put in place, drivers and owners notified of the new requirements and given time to apply for exemptions where appropriate. We would expect these arrangements to take no more than a maximum of six months to put in place, following the commencement of these provisions, but this will of course be dependent on individual circumstances.

- 2.8 A flowchart setting out the sorts of processes that a LA could follow is set out below. This is an indicative illustration, and it will be down to each LA to determine the actions they need to take to ensure this new law is implemented effectively in their area.



## 3. Vehicles

### Overview

- 3.1 Section 167 of the Act permits, but does not require, LAs to maintain a designated list of wheelchair accessible taxis and PHVs.
- 3.2 Whilst LAs are under no specific legal obligation to maintain a list under section 167, the Government recommends strongly that they do so. Without such a list the requirements of section 165 of the Act do not apply, and drivers may continue to refuse the carriage of wheelchair users, fail to provide them with assistance, or to charge them extra.

### Vehicles that can be designated

- 3.3 We want to ensure that passengers in wheelchairs are better informed about the accessibility of the taxi and PHV fleet in their area, confident of receiving the assistance they need to travel safely, and not charged more than a non-wheelchair user for the same journey.
- 3.4 The Act states that a vehicle can be included on a licensing authority's list of designated vehicles if it conforms to such accessibility requirements as the licensing authority thinks fit. However, it also goes on to explain that vehicles placed on the designated list should be able to carry passengers in their wheelchairs should they prefer.
- 3.5 This means that to be placed on a licensing authority's list a vehicle must be capable of carrying some – but not necessarily all – types of occupied wheelchairs. The Government therefore recommends that a vehicle should only be included in the authority's list if it would be possible for the user of a "reference wheelchair"<sup>1</sup> to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair.
- 3.6 Taking this approach allows the provisions of section 165 of the Act apply to a wider range of vehicles and more drivers than if LAs only included on the list vehicles capable of taking a larger type of wheelchair.
- 3.7 The Government recognises that this approach will mean that some types of wheelchair, particularly some powered wheelchairs, may be unable to access some of the vehicles included in the LA's list. The Act recognises this possibility, and section 165(9) provides a defence for the driver if it would not have been possible for the wheelchair to be carried safely in the vehicle. Paragraph 3.10 of this guidance below aims to ensure that users of larger wheelchairs have sufficient information about the vehicles that will be available to them to make informed choices about their journeys.

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<sup>1</sup> As defined in Schedule 1 of the [Public Service Vehicle Accessibility Regulations 2000](#)



## Preparing and publishing lists of designated vehicles

- 3.8 We want to ensure that passengers in wheelchairs have the information they need to make informed travel choices, and also that drivers and vehicle owners are clear about the duties and responsibilities placed on them.
- 3.9 Before drivers can be subject to the duties under section 165 of the Act, the LA must first publish their list of designated vehicles, and clearly mark it as 'designated for the purposes of section 165 of the Act'.
- 3.10 LAs should ensure that their designated lists are made easily available to passengers, and that vehicle owners and drivers are made aware. Lists should set out the details of the make and model of the vehicle, together with specifying whether the vehicle is a taxi or private hire vehicle, and stating the name of operator. Where possible it would also be helpful to include information about the size and weight of wheelchair that can be accommodated, and whether wheelchairs that are larger than a "reference wheelchair" can be accommodated.
- 3.11 However, we recognise that some passengers in wheelchairs may prefer to transfer from their wheelchair into the vehicle and stow their wheelchair in the boot. Although the legal requirement for drivers to provide assistance does not extend to the drivers of vehicles that cannot accommodate a passenger seated in their wheelchair, we want to ensure that these passengers are provided with as much information as possible about the accessibility of the taxi and PHV fleet in their area.
- 3.12 We would therefore recommend that LAs also publish a list of vehicles that are accessible to passengers in wheelchairs who are able to transfer from their wheelchair into a seat within the vehicle. It should be made clear however that this list of vehicles has not been published for the purposes of section 165 of the Act and drivers of those vehicles are therefore not subject to the legal duties to provide assistance. Authorities may however wish to use existing licensing powers to require such drivers to provide assistance, and impose licensing sanctions where this does not occur.

## Appeals

- 3.13 Section 172 of the Act enables vehicle owners to appeal against the decision of a LA to include their vehicles on the designated list. That appeal should be made to the Magistrate's Court, or in Scotland the sheriff, and must be made within 28 days of the vehicle in question being included on the LA's published list.

## 4. Drivers

### Driver responsibilities

- 4.1 Section 165 of the Act sets out the duties placed on drivers of designated wheelchair accessible taxis and PHVs.
- 4.2 The duties are:
- to carry the passenger while in the wheelchair;
  - not to make any additional charge for doing so;
  - if the passenger chooses to sit in a passenger seat to carry the wheelchair;
  - to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
  - to give the passenger such mobility assistance as is reasonably required.
- 4.3 The Act then goes on to define mobility assistance as assistance:
- To enable the passenger to get into or out of the vehicle;
  - If the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair;
  - To load the passenger's luggage into or out of the vehicle;
  - If the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.
- 4.4 Once the duties are commenced, it will be an offence for the driver (unless exempt) of a taxi or PHV which is on the licensing authority's designated list to fail to comply with them. We encourage LAs to provide drivers of taxis and PHVs who are not exempt from the duties with clear guidance on their duties with respect to the carriage of passengers in wheelchairs, either as part of existing driver-facing guidance, or as supplementary communication. The Disabled Persons Transport Advisory Committee's Disability Equality and Awareness Training Framework for Transport Staff<sup>2</sup> may provide a useful resource.
- 4.5 Although each situation will be different, we take the view that reasonable mobility assistance will be subject to other applicable law, including health and safety legislation. However, we would always expect drivers to provide assistance such as folding manual wheelchairs and placing them in the luggage compartment, installing the boarding ramp, or securing a wheelchair within the passenger compartment.
- 4.6 Depending on the weight of the wheelchair and the capability of the driver, reasonable mobility assistance could also include pushing a manual wheelchair or

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<sup>2</sup>

<http://webarchive.nationalarchives.gov.uk/20080804135759/http://www.dptac.gov.uk/education/stafftraining/pdf/trainingframework-nontabular.pdf>

light electric wheelchair up a ramp, or stowing a light electric wheelchair in the luggage compartment.

- 4.7 It is our view that the requirement not to charge a wheelchair user extra means that, in practice, a meter should not be left running whilst the driver performs duties required by the Act, or the passenger enters, leaves or secures their wheelchair within the passenger compartment. We recommend that licensing authority rules for drivers are updated to make clear when a meter can and cannot be left running.

## Applying for and issuing exemptions

- 4.8 Some drivers may have a medical condition or a disability or physical condition which makes it impossible or unreasonably difficult for them to provide the sort of physical assistance which these duties require. That is why the Act allows LAs to grant exemptions from the duties to individual drivers. These provisions are contained in section 166, and were commenced on 1<sup>st</sup> October 2010.
- 4.9 Section 166 allows LAs to exempt drivers from the duties to assist passengers in wheelchairs if they are satisfied that it is appropriate to do so on medical or physical grounds. The exemption can be valid for as short or long a time period as the LA thinks appropriate, bearing in mind the nature of the medical issue. If exempt, the driver will not be required to perform any of the duties. Since October 2010, taxi and PHV drivers who drive wheelchair accessible taxis or PHVs have therefore been able to apply for exemptions. If they do not do so already, LAs should put in place a system for assessing drivers and a system for granting exemption certificates for those drivers who they consider should be exempt.
- 4.10 We suggest that authorities produce application forms which can be submitted by applicants along with evidence supporting their claim. We understand that some licensing authorities have already put in place procedures for accessing and exempting drivers, and as an absolute minimum, we think that the evidence provided should be in the form of a letter or report from a general practitioner.
- 4.11 However, the Government's view is that decisions on exemptions will be fairer and more objective if medical assessments are undertaken by professionals who have been specifically trained and who are independent of the applicant. We would recommend that independent medical assessors are used where a long-term exemption is to be issued, and that LAs use assessors who hold appropriate professional qualifications and who are not open to bias because of a personal or commercial connection to the applicant. LAs may already have arrangements with such assessors, for example in relation to the Blue Badge Scheme.
- 4.12 If the exemption application is successful then the LA should issue an exemption certificate and provide an exemption notice for the driver to display in their vehicle. As section 166 has been in force since 2010, many LAs will already have processes in place for issuing exemption certificates, and as such we do not intend to prescribe the form that those certificates should take. We are however keen to ensure that passengers in wheelchairs are able to clearly discern whether or not a driver has been exempted from the duties to provide assistance, and as such will prescribe the form of and manner of exhibiting a notice of exemption.
- 4.13 If the exemption application is unsuccessful we recommend that the applicant is informed in writing within a reasonable timescale and with a clear explanation of the reasons for the decision.

## Demonstrating exemptions

- 4.14 In addition to the exemption certificate, exempt drivers need to be issued with a notice of exemption for display in their vehicle.
- 4.15 The Department will soon make regulations which will prescribe the form of and manner of exhibiting a notice of exemption. Where a driver has been exempted from the duties under section 165 of the Act, they must display an exemption notice in the vehicle they are driving in the form and manner prescribed by the regulations. If the notice is not displayed then the driver could be prosecuted if they do not comply with the duties under section 165 of the Act.
- 4.16 The Department aims to distribute copies of the notice of exemption to LAs, but they are of course free to produce their own in accordance with the regulations.
- 4.17 Only one exemption notice should be displayed in a vehicle at any one time.

## Appeals

- 4.18 Section 172 of the Act enables drivers to appeal against the decision of a LA not to issue an exemption certificate. That appeal should be made to the Magistrate's Court, or a sheriff in Scotland, and must be made within 28 days beginning with the date of the refusal.
- 4.19 LAs may choose to establish their own appeal process in addition to the statutory process but this would need to be undertaken rapidly in order to allow any formal appeal to the Magistrate's Court to be made within the 28 day period.

## 5. Enforcement

### Licensing measures and prosecution

- 5.1 It is important to note that a driver will be subject to the duties set out in section 165 of the Equality Act 2010 if the vehicle they are driving appears on the designated list of the LA that licensed them, and the LA has not provided them with an exemption certificate, regardless of where the journey starts or ends.
- 5.2 The Government expects LAs to take tough action where drivers breach their duties under section 165 of the Act.
- 5.3 LAs have wide-ranging powers to determine the rules by which taxis and private hire vehicles within their respective areas may operate. We recommend that they use these powers to ensure that drivers who discriminate against disabled passengers are held accountable.
- 5.4 If a driver receives a conviction for breaching their duties under section 165 of the Act, it would be appropriate for the authority to review whether or not they remained a fit and proper person to hold a taxi or PHV drivers' licence. The Government's presumption is that a driver who wilfully failed to comply with section 165 would be unlikely to remain a "fit and proper person".
- 5.5 Authorities might also apply conditions which enable them to investigate cases of alleged discrimination and take appropriate action, even where prosecution did not proceed.

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Department  
for Environment  
Food & Rural Affairs

# The review of animal establishments licensing in England

## **Next steps**

February 2017



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Any enquiries regarding this publication should be sent to us at

**Defra**

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## Introduction

This document provides a summary of the next steps in the review of animal establishment licensing in England. A public consultation on proposed changes ran for 12 weeks, from the 20<sup>th</sup> December 2015 until the 12<sup>th</sup> March 2016, and a summary of the responses was published on 15 September 2016.

The consultation responses have been considered carefully and decisions have been made on the way forward. This document outlines these decisions and the next steps for each of the proposals.

Regulations will be drafted over the next few months. We plan to consult stakeholders through the sector groups on those draft Regulations before they are laid in Parliament.

## Background

Local authorities are required by law to issue licences for specific animal-related establishments and activities, with the aim of maintaining good standards of animal welfare. There is a registration requirement for performing animals, and licensing systems for pet shops, animal boarding, riding establishments and dog breeding.

Estimates show that there are approximately 2,300 licensed pet shops, 650 licensed dog breeders, 1,800 licensed riding establishments, and 6,300 licensed animal boarding establishments in England. These comprise the fourth largest group of business licences issued by local authorities, after premises, taxi and gambling licences.

There is a strong public expectation that animal welfare standards will be robustly enforced by local authorities. However the laws, and their specific requirements, are often decades old, and difficult to adapt to the changing types of animal-related businesses, and to new standards of good practice in animal welfare. Moreover, the current process is complex and burdensome for both businesses and local authorities. For instance, primary legislation limits licences to a calendar-year framework, arbitrarily focussing inspections at the end of the year, and forcing some businesses with multiple functions to have as many as three separate licences.

The Government is committed to improving the effectiveness of existing regulation whilst lifting the regulatory burdens on businesses to support growth, productivity and innovation. These proposals should relieve the administrative burden on local authorities, simplify the application and inspection process for businesses, as well as maintain and improve existing animal welfare standards by modernising the current animal licensing system in England.

## Animal establishments licences

### a) Generic licences

**Question 1: To what extent do you agree or disagree with the proposal to introduce a single Animal Establishment Licence?**

The majority of respondents to the consultation were positive about this proposal, but many highlighted the importance of retaining specific standards for each of the different activities.

We are planning to introduce one 'animal activities' licence which will cover four animal activities; dog breeding, dog/ cat boarding, selling pets and hiring out horses for riding. This will help to streamline the administrative process for local authorities and businesses. There will be separate sets of standards for each activity within the Regulations.

We intend to use the term 'animal activities' rather than 'animal establishment' to make it clear that activities such as the online sale of pets (which may not occur from a particular establishment) are included as licensable activities.

### b) Model conditions

**Question 2: To what extent do you agree or disagree with the proposal to promote or require use of the Model Conditions by local authorities, for activities where they have been agreed?**

The majority of respondents to the consultation were positive about this proposal.

We are currently exploring a mechanism for enshrining the key requirements from the Model Conditions into law and will work with the Canine and Feline Sector Group and the Equine Sector Council on this. We will continue to encourage the use of the full Model Conditions by local authorities.

### c) Breeding and sale of dogs

**Question 3: To what extent do you agree or disagree with the proposal to prohibit the sale of puppies below the age of eight weeks?**

The majority of respondents to the consultation were positive about this proposal.

At present, the Breeding and Sale of Dogs (Welfare) Act 1999 makes it an offence to sell a dog at less than eight weeks of age, "otherwise than to the keeper of a licensed pet shop." We wish the sale of puppies below the age of eight weeks to be prohibited in all cases. The exemption of sale of young puppies by licensed breeders to pet shops is a free standing provision in the Breeding and Sale of Dogs Act 1999, and primary legislation is

needed to make the amendment. Such an amendment might be suitable for a Private Member's Bill. In the meantime, it is proposed that the requirements from the Model Conditions for Pet Vending on not selling pets at too young age will be transposed in the Regulations. For both puppies and kittens this is at less than eight weeks of age.

**Question 4: To what extent do you agree or disagree with the proposal to make clear that the statutory licensing threshold for dog breeders is set at three or more litters per year?**

The majority of respondents to the consultation were positive about this proposal.

This proposal should be seen in the context of the requirement that anyone operating a business selling pets needs a licence irrespective of the number of pets sold. This requirement will apply equally to businesses that: i) breed and also sell pets, ii) are third party sellers of pets (those that sell pets that they did not breed) and iii) operate from home or online. The requirement also applies in the case of business to business sales as well as sales to the public.

Against that background and notwithstanding the recommendations of the EFRA Select Committee in its recent report "Animal welfare in England: domestic pets", we propose to set the statutory licensing threshold for dog breeders at three or more litters per year which is the same level as currently applies in Wales. Specifically, the test will be set as anyone breeding three or more litters per year and selling the puppies. We will retain the existing exemption in the dog breeding legislation for breeders who can show they do not sell any of their puppies as well as the requirement that each breeding bitch should have only one litter per year. Given this, any person with three or more breeding bitches on the premises and selling dogs would need a licence. We consider that three litters or more provides the right balance of being proportionate and reasonable to enforce, and will help target regulatory effort on those breeders producing dogs on a commercial basis. In terms of the impacts, in 2015 the Kennel Club registered 4,443 dog breeders in the UK that had two litters per annum and they estimate that their membership represents around 40% of all breeders. Reducing the threshold to two litters would considerably increase the number of breeders needing a licence. Recent evidence shows there could be around 600 licensed dog breeders in England at the moment. In contrast Kennel Club registered 2,039 breeders breeding either 3 or 4 litters per annum in 2015 in the UK.

There was also a suggestion from consultation respondents that those breeding and selling a puppy should be required to register with their local authority and display their registration number when advertising. This would mean that every household which had just one litter of puppies and sold them would have to register with their local authority. We consider that such a registration requirement would be disproportionate and challenging to enforce by local authorities. Evidence from similar regimes, such as the dog licensing regime which used to exist in the past, suggests that schemes applying to much of the population are difficult to enforce with compliance rates being low. Furthermore such a regime would present a burden on responsible hobby breeders and families who choose to breed from their dog once in its lifetime.

Instead we consider that the focus of enforcement action and regulatory effort should be on repeat breeders and those profiting from the sale of puppies. To encourage better traceability and assurance for those seeking to acquire a dog, we propose to include in the Regulations a requirement for licensed sellers of pets to display their licence number when advertising. This is one of the Pet Advertising Advisory Group's (PAAG's) minimum standards<sup>1</sup> for online classified advertisements. This will allow responsible consumers to check that they are securing a dog from a properly licensed breeder and ties in with the desire of many to see regulation of online sales. In addition we will explore the scope for requiring other elements of the PAAG minimum standards to be applied by licensed pet vendors.

Currently, under the Pet Animals Act 1951, individuals that sell the progeny of their own pets or of pedigree animals are exempt from requiring a licence as a pet vendor. We intend to remove these exemptions, so that anyone selling pets as a business will require a licence. We intend to require local authority officers to have regard to the following non-exhaustive list when deciding whether or not an individual is running a business. A person is likely to be running a business if they are selling regularly to make a profit, earning commission from selling goods for other people, breeding animals regularly to sell for profit or selling online, either through websites or classified adverts, on a regular basis.

## d) Pet sales

### **Question 5: To what extent do you agree or disagree with the proposal to legally require pet sales to provide written information when selling animals?**

The majority of respondents to the consultation were positive about this proposal.

We intend to include this requirement as a mandatory licence condition on those selling pets. We will require the information to cover the five freedoms in the Animal Welfare Act 2006. Many pet sellers already supply such information, which is often freely available to download from welfare and industry groups. A number of sector groups have agreed to refine and develop such information where it needs updating or is not available. Overall this should not entail a significant burden on businesses.

### **Question 6: What other proportionate measures could address concerns around the care of exotic animals?**

Consultation respondents made a number of useful suggestions which could be taken forward by the industry. It was suggested, for example, that pet shops could ask prospective buyers what they know about the animal they are trying to purchase, to make sure they are fully aware of the needs of the animal. Many responsible retailers already do

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<sup>1</sup> <http://paag.org.uk/about-paag/minimum-standards/>

this and some refuse to sell if there are concerns about the capacity of the buyer to care for the pet.

Consultation respondents also highlighted that local authority inspectors often do not have the specialist knowledge to inspect establishments selling exotic pets. We are currently working with the National Companion Animal Focus Group (NCAFG) to develop guidance and training for local authority inspectors, as well as information on how to select inspectors with specialist knowledge where needed.

## Length of licences

### a) Removing the calendar-year restriction

**Question 7: To what extent do you agree or disagree with the proposal to allow licences to be issued for a fixed term, set at any point in the year?**

The majority of respondents to the consultation were positive about this proposal.

We intend to allow licences to be issued for a fixed term, set at any point in the year. This will reduce the burden on local authorities and businesses by spreading licence applications throughout the year, and by ensuring that all licences last for their full term rather than to the end of the calendar year.

### b) Increasing the maximum licence length

**Question 8: To what extent do you agree or disagree with the proposal to increase the maximum length of a licence that local authorities may issue to up to three years?**

Consultation responses to this question were very mixed. Overall, there was considerable support for the proposal as it was felt that this would lead to a reduced burden on local authorities and businesses. The incorporation of earned recognition into the current system was also seen to be beneficial, by awarding longer licences to lower risk establishments with higher welfare standards. It was commented that this may help to drive up standards. However, many respondents added the caveat that this would need to be underpinned by a robust and consistent risk-based system.

We intend to increase the maximum length of a licence that local authorities may issue to up to three years. However, this will be linked to a requirement for local authorities to use a standard risk-based assessment system which is nationally agreed. The National Companion Animal Focus Group is working with us to help to develop a template for this risk-based assessment.

In addition there were comments relating to the competence of local authority inspectors in relation to animal establishments. Whilst in many cases a veterinarian will be involved in inspection of premises, in many cases a local authority inspector may have other duties and areas of expertise other than say on dog breeding or horse riding. We are exploring, therefore, with the National Companion Animal Focus Group and other stakeholders, the scope for setting standards and training needs for local authority inspectors and potentially the development of a list of inspectors that meet such standards. This links to the practice of local authorities pooling inspection resource and developing expertise and is a natural extension of the use of primary authority.

## c) Transferring licences

**Question 9: To what extent do you agree or disagree with the proposal to allow licence holders to transfer licences to new owners of the same premises, subject to notification of and approval by the local authority?**

The majority of respondents to the consultation were negative about this proposal, commenting that the person holding the licence has a strong impact on the level of welfare in the establishment.

We do not intend to take this proposal forward.

## d) Notification of major changes

**Question 10: To what extent do you agree or disagree with the proposal to require licence holders to notify local authorities of major changes, such as a change of premises or scale of activities?**

The majority of respondents to the consultation were positive about this proposal, as it was felt that any major changes could have an impact on animal welfare.

We intend to require licence holders to notify local authorities of major changes. The responses to the consultation highlighted a concern that 'major changes' would need to be clearly defined. We intend to define 'major changes' as any changes which affect the licence conditions.

## Performing animals registration

**Question 11: To what extent do you agree or disagree with the proposal to maintain the registration requirement for performing animals?**

The majority of respondents to the consultation were positive about this proposal.

We intend to maintain the principles behind registration for these animals and to make improvements, including to clarify that the animals do not have to be 'performing' to be included. Many respondents commented on the need to update the Performing Animals Act 1925 so that it includes modern businesses, such as mobile animal exhibits. The current definition of a 'performing animal' was seen to be restrictive and to be inconsistently applied.

To address this issue, we intend to repeal the requirement to be registered in order to exhibit or train a performing animal in the Performing Animals Act 1925 as it applies to England and replace it with a scheme under the Animal Welfare Act 2006 for animals that are exhibited. We will ensure that the definition is drafted so as not to capture unintended activities and we will work closely with the devolved Governments on these proposals and explore the scope for a shared approach.

Concerns were also raised that the animals kept are often not specified on registration. We intend to require businesses to list the number and species of animals they are exhibiting (including both common names and scientific names). In addition we will work with the sector and other interested organisations to encourage the development of good practice guidelines for these activities.

## **Question 12: To what extent do you agree or disagree with the proposed changes to the registration system for performing animals**

A small majority of respondents were positive about this proposal. Many respondents did not feel qualified to comment.

The specific changes suggested were to update the legal standards to refer explicitly to the welfare needs set out in the Animal Welfare Act 2006, to remove the need for local authorities to send copies of paperwork to Defra and to extend powers of entry to areas where the animals are kept.

We intend to update the legal standards to refer explicitly to the welfare needs set out in the Animal Welfare Act. In addition, we intend to remove the need for local authorities to send copies of paperwork to Defra. Instead, local authorities will be requested to submit annual data (in electronic format) on all licences and registrations.

By bringing the principles behind the registration system into Regulations under the Animal Welfare Act, the scheme will be covered by the powers of entry in the Animal Welfare Act. This will mean that local authorities will have powers of entry to areas where the animals are kept.



## Powers of entry

### **Question 13: To what extent do you agree or disagree with these proposals on powers of entry?**

The majority of respondents were supportive of the principle of powers of entry. Some concerns were raised about the need for a warrant and the need to give prior notice of the application for a warrant, as well as limiting powers of entry to four people.

The Regulations will be made under the Animal Welfare Act 2006 and local authorities' powers of entry will be on the same basis as under the Act. This will not include a restriction on the number of people that can make use of the power of entry. It will require a warrant to enter dwelling premises, with reasonable notice given of the application for a warrant unless such notice would defeat the object of the entry.

## Accreditation

### **a) UK Accreditation Service (UKAS) accreditation of independent regulators**

#### **Question 14: To what extent do you agree or disagree with the proposal to allow an exemption from licensing requirements for businesses affiliated to a body accredited by UKAS?**

Consultation responses to this question were mixed. Whilst there was support for the principle of earned recognition and the potential for this to drive up welfare standards, concerns were raised about the creation of a perceived two-tier system and the loss of local authority control of licensing. In particular, concerns were raised that the proposal would lead to a loss of revenue and expertise for local authorities, and confusion over where complaints should be sent.

We intend to incorporate the concept of earned recognition into the current licensing system, by including a consideration of any affiliation to a body accredited by UKAS in the risk-based assessment process that we are developing with the NCAFG. In the system being developed it is likely businesses affiliated to a body accredited by UKAS will receive a lower risk score, and may receive a longer licence term at lower annual cost. This would ensure a reduced burden on low risk businesses and on local authorities whilst maintaining local authority control over the licensing scheme.

This proposal was suggested by a number of respondents to the consultation, including local authorities, industry stakeholders and animal welfare organisations.

## b) Voluntary accreditation

**Question 15: To what extent do you think sector-led UKAS-accredited certification schemes could improve animal welfare in unlicensed areas? If so, what would work best and how could this process be encouraged?**

This was not a proposal and so no changes will be made. Many of the respondents were positive about the potential for sector-led UKAS-accredited certification schemes to improve animal welfare and this is something that we will be encouraging.

## Additional proposals

One of the difficulties in developing policy in this area has been a general paucity of data on the number of licences currently issued by local authorities. Some data has been made available through Freedom of Information requests to local authorities. In order to improve the information that is available, Defra proposes to request local authorities to submit annual data (in electronic format) on the number of licences and registrations they hold for the animal activities in the scope of this review which would then be published. This will ensure that there is better information and data on the numbers of such establishments and businesses in England and help to address concerns about consistency between local authorities and a lack of oversight and public scrutiny, which were raised repeatedly in the responses to the consultation.

As noted, local authorities have been subject to recent and regular Freedom of Information requests seeking such data, and the need for those would be reduced if data was more freely available; so the overall burden on local authorities should not change. Furthermore, it is good administrative practice for local authorities to keep records on the number of licences they issue.

The lack of consistency around licence fees was also raised in responses. We intend to maintain the current fee structure, which is based on full cost recovery. However, we are also working with the NCAFG to develop guidance for local authorities on setting reasonable fees and charges, which will help to improve consistency and transparency.

Concerns were raised about difficulties with enforcement. We are looking at the possibility of bringing in fixed penalty notices to aid enforcement.

## Next steps

Defra will develop draft Regulations based on these conclusions and will continue to work with stakeholders through the National Companion Animal Focus Group, the Canine and Feline Sector Group and the Equine Sector Council to put in place the necessary supporting policies, guidance and documentation.

**DRAFT REVISED STREET TRADING POLICY**

Relevant Portfolio Holder	Councillor P. Whittaker
Portfolio Holder Consulted	No
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 street trading policy has been in place since July 2011. It is believed that given the length of time since the policy was adopted, it is appropriate to carry out a review of the street trading policy and to carry out consultation on a draft revised policy.

**2. RECOMMENDATIONS**

**That Members RESOLVE to approve the draft revised street trading policy at Appendix 2 for the purpose of consultation with relevant parties.**

**3. KEY ISSUES**

**Financial Implications**

- 3.1 The costs associated with carrying out the consultation on the draft policy would be met from existing budgets held by Worcestershire Regulatory Services.

**Legal Implications**

- 3.2 The Local Government (Miscellaneous Provisions) Act 1982 ("the Act") as amended allows local authorities to adopt provisions concerning the control of street trading. Under the Act there is no legal requirement for the Council to have a policy on how it proposes to control street trading under the Act.
- 3.3 However it is considered best practice for a Council to adopt such a policy to encourage consistency and transparency in the way that its functions are carried out. It is also considered best practise to review any such policy adopted from time to time.

**Service / Operational Implications**

- 3.4 Council's usually control street trading so that they can decide where to allow street trading and can properly manage the environmental and safety implications that the street trading creates. Controlling street trading also allows Councils to manage the impact street trading has on the local economy.
- 3.5 The control of street trading can also be of benefit to traders who can obtain greater security over their "pitch" if they are the only person who has the Council's consent to trade there.
- 3.6 Officers believe that it is important that where a Council decides to exercise control over street trading, the Council should adopt a street trading policy, which sets out clearly how applications for street trading consents will be dealt with and what principles will be applied when determining applications made for street trading consents. It is also believed that such a policy should be reviewed from time to time to ensure it is still appropriate and in line with the Council's aims and objectives in controlling street trading.
- 3.7 A copy of the Council's current street trading policy and standard conditions can be seen at **Appendix 1**. The policy and standard conditions have been in place since July 2011. It has therefore been more than five years since these have been formally reviewed. Therefore officers believe the policy and conditions should now be subject to review.
- 3.8 A draft revised street trading policy has been produced and is attached at **Appendix 2**. The draft revised street trading policy is a more comprehensive and detailed document than the current street trading policy and incorporates the standard conditions. The draft revised policy aims to provide as much information and guidance as possible to assist applicants, consent holders, officers and Members with a view to achieving a transparent and consistent approach to how the Council's street trading functions are carried out.
- 3.9 The draft revised policy begins by giving an introduction to the District. This is followed by a section explaining what the policy is and what objectives it seeks to achieve.
- 3.10 The draft revised policy then sets out the legislative framework within which the Council controls street trading, and explains that streets in the District have been designated as "consent streets" and those that are designated as "prohibited streets."

- 3.11 The draft revised policy goes on to explain the requirements involved in making an application for a street trading consent. This includes reference to the documentation that must be submitted with an application.
- 3.12 The draft revised policy sets out the way in which applications will be consulted upon and determined.
- 3.13 The application will be notified to a number of relevant stakeholders and other interested parties so that they have the opportunity to pass comment on the application and lodge any objections during a period of 28 days following on from the date that the application is made.
- 3.14 In addition however a further requirement is proposed in respect of applications for new consents, where the trading is proposed to take place from a fixed location. The applicant in these circumstances would be expected to display a public notice at the site of the proposed trading for at least 21 consecutive days from the date the application is made.
- 3.15 The draft policy explains that where representations or objections are received, officers will, in the first instance, explore the possibility that a compromise solution can be reached between the applicant and the person or persons making the objection or representation. If this is not possible, the draft policy explains that the applicant has the right for their application to be referred to a Licensing Sub-Committee for determination.
- 3.16 The draft policy goes on to set out the key considerations that will be taken into account by a Licensing Sub-Committee when determining an application for a street trading consent. The options available to a Licensing Sub-Committee are also set out within the draft policy.
- 3.17 The draft policy also seeks to set out the Council's approach to enforcement and complaints in respect of street trading activity. This is done in the interests of fairness and transparency and with a view to promoting consistency.
- 3.18 The draft revised policy is based on a template policy that officers are hoping to be able to implement across Worcestershire as part of the on-going effort to try harmonise as many licensing policies and procedures as possible across the county.
- 3.19 This report has been submitted to seek approval of the draft revised policy so that it can be consulted upon with the public and relevant stakeholders.

3.20 It is proposed use a consultation questionnaire to elicit views on the following matters set out in the draft policy:-

- The objectives of the policy
- The application procedures
- The key considerations
- The standard conditions
- Any other observations

3.21 The results of the consultation exercise would be brought back to the Licensing Committee for consideration before any decision is taken whether to adopt a revised street trading policy.

#### **4. RISK MANAGEMENT**

4.1 In order to minimise the risk of legal challenge to any policy subsequently adopted, proper and effective consultation on the draft revised street trading policy is being recommended.

#### **5. APPENDICES**

Appendix 1 – Existing Street Trading Policy and Conditions

Appendix 2 – Draft Revised Street Trading Policy

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## **STREET TRADING - POLICY STATEMENT**

### **UNDERLYING PRINCIPLES**

1. Street Trading is regarded as an acceptable activity in Bromsgrove within the consented areas (Appendix A), provided that it is located where it can make a positive contribution to add interest, vibrancy, and diversity to the area and does not give rise to problems associated with Crime and Disorder.
2. The Council is the responsible authority for granting Street Trading Consents in Bromsgrove and will ensure that traders operate in accordance with conditions attached to such Consents (Appendix B).
3. The Council accepts that Bromsgrove comprises distinct areas with differing historic and commercial characters, and varying streetscape qualities, which should be individually developed and promoted.
4. The Council will consult with the following agencies:
  - The Highways Authority – Worcestershire County Council;
  - The Chief Officer of Police;
  - Worcestershire Regulatory Services – Compliance Team;
  - The Councils Street Scene and Community Services Team;
  - The Council's Community Safety Team;
  - Trading Standards;
  - The Parish Council (if any) in which the Trading Unit is to be located;
  - The Ward Councillors; and
  - The owners/occupiers of any properties near to the proposed location of trading site.
  - Any other relevant agency
5. The Crime and Disorder Act (1998) stresses the need to take positive action to combat crime and the fear of crime. Therefore, prior to granting any Street Trading Consent the Council will pay particular attention to any potential crime and disorder arising directly or indirectly from the Consent and will give significant weight to the views of the Police and Community Safety Officer.
6. The Council may issue Consent for up to one year or a lesser period where appropriate if the trading activity is seasonal or of a temporary nature.
7. Applications will only be considered where an applicant has completed an application form and will not be granted unless an applicant has paid the appropriate Consent fee.
8. Applications for a Street Trading Consent will be considered and determined under the Council's Scheme of Delegation by the Head of Worcestershire Regulatory Services, or otherwise by the Council's Licensing Sub-Committee.

9. Where more than one trader applies for Consent to trade from an approved site, the applications will be referred to the Council's Licensing Sub-Committee.

## **CRITERIA FOR CONSIDERING APPLICATIONS FOR STREET TRADING CONSENTS**

When considering an application for a Street Trading Consent, the Council will take into account the following matters when reaching its decision:

1. Responses from Consultees and other interested parties.
2. The proposed siting and design of the street trading vehicle and whether or not it enhances the area within the immediate vicinity.
3. Any potential obstruction to the free flow of pedestrians or of vehicles in the street, with special regard for the visually impaired.
4. Road safety, either arising from the siting of the street trading vehicle or as a result of customer visiting or leaving the site, including existing traffic orders and waiting restrictions.
5. The nature of the proposed goods to be traded and whether this will create conflict with the trade of adjacent, established shops.
6. Whether the proposed siting of the street trading vehicle obstructs the frontage of adjacent established shops.
7. The numbers, distribution and location of existing street trading consents.
8. The likelihood of excessive noise, odour and litter being generated.
9. Whether the proposal would conflict with any other policies of the Council.



CONSENTED STREETS	PROHIBITED STREETS
<p><b>ALL STREETS WITHIN BROMSGROVE DISTRICT EXCEPT THOSE DESIGNATED AS PROHIBITED STREETS AND STREETS WITHIN THE TOWN CENTRE USED FOR MARKET PURPOSES.</b></p>	<p><b>Worcester Road</b></p> <p><b>Hanover Street</b></p> <p><b>St. John Street</b></p> <p><b>Chapel Street</b></p> <p><b>Mill Lane</b></p> <p><b>Market Street</b></p> <p><b>Church Street</b></p> <p><b>Station Street</b></p> <p><b>High Street</b></p>

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## BROMSGROVE DISTRICT COUNCIL

### LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

#### STREET TRADING - STANDARD CONDITIONS

1. Bromsgrove District Council (“the Council”), pursuant to Section 3 of the Local Government (Miscellaneous Provisions) Act 1982 (“the Act”) have resolved that Schedule 4 to the Act, to control street trading in the district should come into force from May 2010.
2. The Council has resolved that every street within the area of the district of Bromsgrove is to be designated as a Consent Street” under the Act, ( except those shown at Appendix One and nominated as Prohibited Streets ) which means a street in which street trading is prohibited without a Consent issued by the Council.
3. A street trading Consent is issued by the Council subject to the following conditions, insofar as they do not conflict with or are amended by any specific conditions imposed on the grant of the Consent:-
  - (a) The Consent is valid for the period shown on the Consent
  - (b) The Consentee shall pay a fee to the Council in accordance with the approved list of fees.
  - (c) The Consent may be surrendered by the Consentee at any time, providing that the Council shall repay to the Consentee that part of the fee considered by the Council appropriate for the unexpired period of the licence, less £35 for administrative expenses.
  - (d) The Consent holder must at all times while trading display in a conspicuous position the Consent issued by the Council.
  - (e) The Consentee shall not carry on his/her trade in such a way as to cause obstruction of any part of the street in which he/she is trading, or danger to persons using the street.
  - (f) The Consentee shall not carry on his/her trade in such a way as to cause a nuisance or annoyance to persons using the street or to occupiers in the vicinity.
  - (g) The Consentee shall not sell any type of food, goods or merchandise other than that specified in the Consent.
  - (h) The Consentee shall provide and maintain, where appropriate, adequate facilities for the collection of litter resulting from his/her trading and at the close of each trading day shall remove any litter resulting from his/her trading from the street. Proof of a Trade Waste Agreement

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should accompany the application. The Consentee shall be responsible for any damage to the highway or otherwise resulting from the trading activity.

- (i) The Consentee shall make such provision as is necessary to prevent the deposit in any street of solid or liquid refuse occurring from the trading activity and shall not discharge any waste water to the street surface or to the surface water drains.
- (j) The Consentee shall not use any television, tape recorder or other device for the reproduction of sound while trading without the express permission of the Council.
- (k) The Consentee shall not trade outside the times and days permitted by the Consent
- (l) The Consentee shall not trade in any location other than the location permitted by the Consent
- (m) Any vehicle, stall or container used by the Consentee in the course of street trading shall be constructed and maintained to the satisfaction of the Council and shall comply with legislation in force at the time or any relevant British Standard.
- (n) The use and storage of liquid petroleum gas shall comply with the Code of Practice or requirements of the Fire Officer.
- (o) The Consent shall not operate for any other purpose than to permit the Consentee to trade in a Consent street in accordance with the conditions imposed. The Consentee must ensure that he/she has obtained any other approval or registration required under any other statutory provisions relevant to his/her trade.
- (p) The Consentee must be 18 years of age or over and shall be responsible at all times for control of the stall. Any persons assisting on the stall shall be 18 years of age or over.
- (q) The Consent is personal to the Consent holder and shall not be assigned or transferred to any other person or company.
- (r) The Consent holder or his employee must move his vehicle/stall or vacate the site immediately upon the instruction of a Police Officer or Authorised Officer of the Council.
- (s) Nothing herein contained shall prejudice the rights, powers, duties and obligations of the Council or any other enforcing authority under any public or private statutes, orders, regulations or byelaws.
- (t) The Consent holder shall at all times maintain a valid Third Party Public Liability Insurance policy to the satisfaction of the Council and shall

# Agenda Item 5

produce a valid certificate of such insurance at any time upon the request.

- (u) Nothing contained in these conditions shall relieve or excuse the Consent holder or his/her employee or agent from any legal duty or liability and the Consent holder shall indemnify the Council in respect of all claims, actions, demands or costs arising from trading.
- (v) The conditions attached to the Consent may be varied by the Council at any time.
- (w) Any breach of these conditions may lead to the Consent being suspended or revoked.
- (x) In these conditions “the Consent” means a Consent issued under Section 3 of and Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982. Consentee means the person named on the Consent issued by the Council and includes any employee, servant or agent of the licence holder and “the Council” means Bromsgrove District Council.

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# Bromsgrove District Council

[www.bromsgrove.gov.uk](http://www.bromsgrove.gov.uk)

## Draft Revised Street Trading Policy



**Adopted by Council to take effect on DATE**

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## 1.0 INTRODUCTION

### 1.1 Bromsgrove District

- 1.1.1 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.
- 1.1.2 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.
- 1.1.3 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.
- 1.1.4 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 policy statement accords with this overall vision and attempts to help further the Council's strategic purposes, which are:
- Keep my place safe & looking good.
  - Help me run a successful business
  - Help me to be financially independent
  - Help me to live my life independently
  - Help me find somewhere to live in my locality
  - Provide good things for me to see, do & visit



## 1.2 The Policy

- 1.2.1 This document states Bromsgrove District Council's Policy on Street Trading, as defined by the Local Government (Miscellaneous Provisions) Act 1982 (Section 3 and Schedule 4).
- 1.2.1 In exercising its discretion in carrying out its regulatory functions, Bromsgrove District Council will have regard to this Policy document and the principles set out therein.
- 1.2.2 Notwithstanding the existence of this Policy, each application will be considered on its own merits, with reference to the principles and procedures that are detailed in this Policy.

## 1.3 The Objectives of this Policy

- 1.3.1 This Policy recognises the important service that is provided by street traders and the contribution they make to the local economy.
- 1.3.2 The objective of this Policy is to create a trading environment in which street trading complements existing premises-based retailing activities, is sensitive to the needs and concerns of residents and provides diversity in terms of consumer choice.
- 1.3.3 The Policy aims to ensure that street trading does not undermine safe and efficient passage along public highways.
- 1.3.4 This Policy aims to balance the needs of the wider community, local community and street traders, against the needs of those who may be adversely affected by the street trading activities.
- 1.3.5 The Policy aims to provide consistency and transparency in the way in which the Council deals with street trading and to ensure that street trading is fairly, appropriately and proportionately controlled, in line with the Regulator's Code.

## 1.4 The Law

- 1.4.1 The Local Government (Miscellaneous Provisions) Act 1982 (Section 3 and Schedule 4) provides the legal framework for the control of street trading in England and Wales. This activity is defined as "*the sale and exposing or offering for sale any article, including a living thing, in a street.*" Streets are further defined as to include any road, footway, beach, or other area to which the public have access without payment.
- 1.4.2 The main purpose of this legislation is to establish an appropriate regulatory regime which prevents undue nuisance, interference or inconvenience to the public brought about by street trading. This legislation provides local authorities with the power to designate specific areas within their administrative boundaries as either:

- Prohibited Streets: those which are not open to street traders
- Consent Streets: where street trading is prohibited without Local Authority consent
- Licence Streets: where trading is prohibited without a Local Authority licence

1.4.3 Local authorities can place conditions on any Consent or Licence granted. The Act also creates offences associated with trading in Consent or Licence streets without the necessary authority: the person guilty of such an offence may be liable, on conviction, to a fine of up to £1000.

1.4.4 There are, however a number of exemptions provided in the Act, which are not considered to be street trading. These are detailed in Section 10 below (definition of 'Street Trading'). However it is important to note that exempted traders are still controlled by other regulatory legislation.

## **1.5 Licensing Act 2003**

1.5.1 It should be noted that should a street trader wish to sell alcohol or provide late night refreshment, additional authorisation will be needed under the terms of the Licensing Act 2003.

1.5.2 Late night refreshment is the supply of hot food or drink between the hours of 11pm and 5am on any day of the week.

1.5.3 Licensing Officers will be able to provide further information on the requirements of the Licensing Act 2003.

## **2.0 DESIGNATION OF STREETS FOR THE PURPOSES OF STREET TRADING**

### **2.1 Prohibited Streets**

2.1.1 The following streets have been designated by the Council as prohibited streets:

- Worcester Road
- Hanover Street
- St. John Street
- Chapel Street
- Mill Lane
- Market Street
- Church Street
- Station Street
- High Street

2.1.2 This means that street trading is prohibited from taking place in these streets.

### **2.2 Consent Streets**

2.2.1 All other streets in the District that have not been designated as “prohibited streets” have been designated by the Council as “consent streets”. This means that street trading can only take place in these streets with the consent of the Council.

## **3.0 APPLICATIONS FOR A STREET TRADING CONSENT**

### **3.1 Advice for New Applicants**

- 3.1.1 New applicants are advised to contact the Council at their earliest opportunity, preferably before an application is made. This allows Officers to provide advice, as well as clarifying any areas of uncertainty.
- 3.1.2 It is the responsibility of the applicant, in the first instance, to identify the location(s) in which they wish to trade as there is no designated list of street trading “pitches” that can be traded from.
- 3.1.3 The Council can also provide advice in relation to other legal requirements of a new Consent Holder, for example, planning permission or food safety requirements.

### **3.2 Applications**

- 3.2.1 All applications for grant or renewal of a Street Trading Consent must be made on the Council’s prescribed application form.
- 3.2.2 Each application must be accompanied by the prescribed application fee. An application will not be considered as duly made until the prescribed application fee has been received.
- 3.2.3 The following will also be required to be submitted with the application:-
  - Where the proposed trading is from a fixed location, a copy of a plan at a minimum scale of 1:2000, unless an alternative scale has been specified by a Licensing Officer. This plan should clearly identify the proposed site location by marking the site boundary with a red line.
  - Where the trading is proposed to take place on a mobile basis, a list of the relevant Towns/Parishes in which trading is proposed to take place providing details where possible about specific areas.
  - Confirmation that an adequate level of third party public liability insurance is, or will be, in place during street trading activity.
  - Where the trading is to take place from private land, documentary evidence that the landowner has given their consent to the applicant to trade from their land.
  - Two passport sized photographs of the applicant and any person who will be assisting with the trading on a regular basis. One of the photographs of each person must be endorsed with a statement verifying the likeness of the photograph to the applicant by a solicitor, notary, a person of standing in the community or any individual with a professional qualification.
  - A colour photograph of any trailer, stall or other vehicle from which the street trading activities are proposed to take place.

- Food hygiene certificates (where relevant)
- Satisfactory certificates confirming the safety of any gas or electrical installations within the trailer, stall or vehicle from which the street trading activities are proposed to take place.
- Certificates to confirm that any fire fighting equipment within the trailer, stall or vehicle from which the street trading activities are proposed to take place have been appropriately serviced and maintained.

3.2.4 Applications cannot be considered from anyone under the age of 17.

### **3.3 Processing an Application**

3.3.1 Applications for grant or renewal of a Street Trading Consent will be notified by the Council to the following:-

- West Mercia Police
- Worcestershire County Council (Highways)
- Highways England
- The relevant Parish Council(s)
- The District Councillor(s) for the Ward(s) concerned
- Environmental Health Officers at Worcestershire Regulatory Services
- The Planning Authority
- Safer Bromsgrove
- Bromsgrove District Council Environmental Services
- North Worcestershire Economic Development and Regeneration (NWEDR) team
- Trading Standards
- The owners / occupiers of any residential and/or business properties in the vicinity of the proposed location of any static trading site.
- Any other relevant organisation

3.3.2 Additionally, where the application is for grant of a new Consent in respect of a fixed location, the applicant must also advertise their application by displaying the prescribed Public Notice at the relevant location for not less than 21 days beginning with the day after the application for Consent is made to the Council. The form of the Public Notice required is shown at **Annex A** to this Policy.

3.3.3 The Council will allow 28 days from the date that the application is received and confirmed as valid, for people to make representations or objections in relation to the application.

3.3.4 Representations or objections will be accepted from any of the bodies listed at 3.3.1 and any other individual or business that can demonstrate that they would be materially affected by the proposed street trading activities.

## **3.4 Determining Applications with no Representations or Objections**

- 3.4.1 Where no representations or objections are received within 28 days of the application being received, Officers will grant Consent to the applicant in the terms that it was applied for.

## **3.5 Determining Applications through Mediation**

- 3.5.1 Where a representation or objection is received in respect of an application, a Licensing Officer will, in the first instance, attempt to mediate between the relevant parties.

- 3.5.2 For example, it may be possible to find a compromise position in one of the following ways:-

- amending the times during which trading will take place;
- amending the days on which trading will take place;
- adding conditions to the Consent to address specific concerns;
- granting Consent for a trial period to assess the impact; or
- amending the list of articles to be sold.

- 3.5.3 Where all relevant parties agree to a compromise position, the Consent will be granted by Officers, subject to the agreed amendments.

## **3.6 Determining Applications Where Mediation Is Not Possible**

- 3.6.1 Where representations or objections are received and it is not possible to reach an agreed compromise, the application can be referred, at the applicant's request, to the next available Licensing Sub-Committee for determination.

- 3.6.2 The Licensing Sub-Committee will be conducted in accordance with the procedure attached at **Annex B** of this Policy.

## **3.7 Key Considerations**

- 3.7.1 Each application will be considered on its own merits.

- 3.7.2 The Council will have regard to all of the circumstances and all of the representations and objections that it receives. The Council will normally grant or renew a Street Trading Consent unless, in its opinion,-:

- a significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site; or
- there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited; or

- there would be a significant loss of amenity caused by traffic, noise (whether from trading unit or its customers), light pollution, rubbish, air quality, potential for the harbourage of vermin; or
- there is already adequate like provision in the vicinity of the site to be used for street trading purposes; or
- there is a conflict with Traffic Orders such as waiting restrictions; or
- the site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes; or
- street trading activities would undermine the safe and efficient passage along public highways and cause congestion; or
- the pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities; or
- the site does not allow the Consent Holder, staff and customers to park in a safe manner; or
- the trading activity would detract from the visual or other attractions of the area in which it takes place, particularly designated Conservation Areas, Areas of Outstanding Natural Beauty and Sites of Special or Scientific Interest; or
- street trading activities would conflict with the solemnity and tranquillity that can reasonably be expected at sensitive locations, such as close to a place of worship, cemetery, crematorium etc; or
- the street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff; or
- a Consent has already been granted to another person to trade similar articles in the immediate vicinity.

### **3.8 Options Available to Licensing Sub-Committee**

3.8.1 When determining an application for grant or renewal of a Street Trading Consent, a Licensing Sub-Committee can take any of the following steps as is considered desirable with a view to meeting the objectives of this Policy:-

- (a) grant consent to the applicant as applied for;
- (b) grant consent to the applicant subject to modifications to any of the following matters:
  - (i) the days on which trading can take place;
  - (ii) the times during which trading can take place;
  - (iii) the location(s) where trading can take place;
  - (iv) the articles that can be traded;
  - (v) the conditions attached to the Consent;
  - (vi) the duration of the Consent.
- (c) refuse to grant Consent.

3.8.2 In the interests of transparency, reasons will be given for any decision taken by a Licensing Sub-Committee.



## **3.9 Grant of Consent**

- 3.9.1 The grant of a street trading consent does not guarantee the holder of the Street Trading Consent unimpeded access to the location(s) where they are permitted to trade.
- 3.9.2 There may be occasions where the trading location(s) specified on the Street Trading Consent may be unavailable to the holder of the Street Trading Consent for reasons beyond the control of the Council.

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## **4.0 DURATION OF STREET TRADING CONSENTS**

### **4.1 Duration**

- 4.1.1 A Street Trading Consent may be granted for any period not exceeding 12 months, but may be revoked at any time.
- 4.1.2 The holder of a Street Trading Consent may at any time surrender their Consent to the Council, and it shall then cease to be valid
- 4.1.3 A Street Trading Consent will normally be granted for 12 months and will then expire.
- 4.1.4 The Council will consider granting a Street Trading Consent for a shorter duration than 12 months on application.
- 4.1.4 A Street Trading Consent may be granted for a shorter period as determined either through the mediation process described at Paragraph 3.5 or by a Licensing Sub-Committee. Consents lasting less than 12 months may be granted to provide a “trial period” during which any adverse impact of the trading can be assessed.

### **4.2 Renewal**

- 4.2.1 Applications to renew an existing Street Trading Consent must be made at least 28 days prior to the expiry of the existing Consent.
- 4.2.2 If applications for renewal are not received at least 28 days prior to the expiry of the existing Consent, applications from other prospective traders wishing to trade at the relevant location will be considered.

## 5.0 CONDITIONS ATTACHED TO CONSENTS

### 5.1 Standard Conditions

- 5.1.1 When granting or renewing a Street Trading Consent, the Council may attach such conditions to it as they consider reasonably necessary.
- 5.1.2 Street Trading Consents will usually be granted subject to the standard conditions detailed in **Annex C** to this Policy.

### 5.2 Additional Conditions

- 5.2.1 Additional conditions, over and above the standard conditions, may be imposed on a Street Trading Consent on a case by case basis. Additional conditions may be attached either as a result of the mediation process described at Paragraph 3.5 or by a Licensing Sub-Committee when granting Consent.

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## **6.0 APPEALS**

### **6.1 Refusals / Attached Conditions**

- 6.1.1 The Act does not provide an applicant with any direct right of appeal against a decision to refuse the grant or renewal of a Street Trading Consent, the revocation of a Street Trading Consent, or against any restrictions or conditions imposed on a Street Trading Consent.

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## **7.0 COMPLAINTS AND ENFORCEMENT**

### **7.1 General Principles**

- 7.1.1 It is recognised that well-directed enforcement activity by the Council benefits not only the public but also responsible members of the trade.
- 7.1.2 All decisions and enforcement actions taken by the Licensing Authority will be taken in accordance with the Regulator's Code.

### **7.2 Offences**

- 7.2.1 The following are offences under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982:-

- engaging in street trading in a prohibited street;
- engaging in street trading in a consent street without Consent;
- contravention of a condition in relation to trading location; and
- contravention of a condition in relation as to the times between which or periods for which a Consent Holder can trade.

### **7.3 Complaints**

- 7.3.1 Where complaints are received regarding the carrying on of street trading activities, these will be investigated in a prompt and professional manner.

- 7.3.2 If a complaint is found to be justified then the following actions may be taken by Officers:-

- verbal warning;
- written warning;
- simple caution;
- prosecution; or
- referral of the Consent Holder to a Licensing Sub-Committee.

- 7.3.3 If an existing Consent Holder is referred to a Licensing Sub-Committee, the Licensing Sub-Committee may take any of the following steps as are deemed desirable to meet the objectives of this Policy:-

- take no further action;
- give a warning to the Consent Holder;
- amend the days on which trading can take place;
- amend the times during which trading can take place;
- amend the location(s) where trading can take place;
- amend the articles that can be traded;
- amend the conditions attached to the Consent;
- amend the duration of the Consent; or
- revoke the Consent.

## **8.0 AMENDMENTS TO THIS POLICY**

- 8.1 Any significant amendment to this Policy will only be implemented after further consultation with the trade and the public.

For the purpose of this section, any significant amendment is defined as one that:-

- a) is likely to have a significant financial effect on licence holders;
- b) is likely to have a significant procedural effect on licence holders; or
- c) is likely to have a significant effect on the community.

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## 9.0 FEES AND CHARGES

- 9.1 The fees charged by the Authority for Consents to trade should at least cover the cost of administering and enforcing the service.
- 9.2 The fees will be reviewed at least on an annual basis and published on the Council's website.
- 9.3 It is possible for the Authority to charge different fees for Consents that are for different durations or locations. Different fees can also be charged depending on the nature of the articles being sold and depending on whether the trading takes place at a single location or on a mobile basis.
- 9.4 Street trading fees may be waived at the discretion of the relevant Corporate Head of Service, acting in consultation with the Chairman and Vice-Chairman of the Licensing Committee. Fees may only be waived in relation to charitable or community events, or events of a similar nature. Each event will be judged on its own merits.

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## 10.0 DEFINITIONS

<b>TERM</b>	<b>DEFINITION</b>
Authorised Officer	An Officer of the Council authorised by it to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.
Consent	A Consent to trade on a street granted by the Council, pursuant to Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
Consent Holder	The person or company to whom the consent to trade has been granted by the Council.
Consent Street	A street in which street trading is prohibited without the consent of the Council.
Council	Bromsgrove District Council
Days	Refers to consecutive or calendar days unless specified otherwise.
Prohibited Street	A street in which street trading is prohibited
Street	Any road, footway or other area to which the public have access without payment, or any part of a street, including all roads, footways and areas open as a matter of fact to the public without payment, within the distance of 30 metres from the centre of those streets which are part of the public highway.
Street Trading	<p>The selling or exposing, or offering for sale of any article (including a living thing) in any street. The following are not street trading for the purposes of this Policy:-</p> <ul style="list-style-type: none"><li>• a pedlar with a Pedlar's Certificate;</li><li>• anything done in a Market or Fair the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of an Enactment or Order;</li><li>• trading in a trunk road picnic area provided by the Secretary of State under Section 112 of the Highways Act 1980;</li><li>• trading as a newsvendor selling only newspapers/magazines;</li><li>• trading which is carried out at premises used as a petrol filling station, or at premises used as a shop, or in a street adjoining premises so used, and as part of the business of the shop;</li><li>• selling things, or offering or exposing them for sale, as a roundsman;</li><li>• the use for trading, under Part VIIA of the Highways Act</li></ul>



1980, of an object or structure placed on, in or over a highway;

- the operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980;
- the doing of anything authorised by regulations made under Section 5 of the Police, Factories etc (Miscellaneous Provisions) Act 1916.

Street Trading Assistant

A person engaged by the Consent Holder to assist them with their trading.

A street trading assistant will be deemed to be assisting a Consent Holder on a regular basis if they will be engaged to assist them on more than 14 days per calendar year.

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**ANNEX A**

## NOTICE OF APPLICATION FOR GRANT OF A STREET TRADING CONSENT

Name of Applicant	
Location	
Summary of application (hours of trading, articles to be sold, etc):	
<p><b>NOTICE IS HEREBY GIVEN</b> that an application has been made to Bromsgrove District Council for a Consent to carry out street trading at the above location</p> <p>Copies of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (which defines the type of activity that may be carried on under a Consent) and of the application may be inspected at the Customer Contact Centre, Parkside, Market Street, Bromsgrove, Worcestershire, B61 8DA between 9.00 am and 4.00 pm (Monday to Friday except public holidays).</p> <p>Any representations or objections in respect of the above application must be made in writing to the council at the above address by</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">(28 days after the date of the application)</p>	

## ANNEX B – HEARINGS PROCEDURE

### **BROMSGROVE DISTRICT COUNCIL**

#### **Licensing Sub-Committee (Street Trading)**

#### **Procedure**

1. The Chairman will ask everyone present to introduce themselves.
2. The Chairman will briefly explain the procedure to members of the public.
3. The Licensing Officer will open the hearing with an outline of the relevant details of the application.
4. The applicant or his/her representative will be invited to present his/her case, at the conclusion of which he/she, together with any witnesses he/she may have called, may be questioned by Members of the Sub-Committee.
5. The Sub-Committee may then invite comments from Officers and, if appropriate, representatives of such bodies as the Police and Fire Authority, following which any objectors, and others wishing to make representations in respect of the application, will be invited to make their submissions. Members of the Sub-Committee may ask questions of all those present.
6. The applicant will then be allowed to make a final statement in response to any objections that have been raised.
7. At the conclusion of the hearing, the stage at which the Sub-Committee will wish to deliberate upon the application, the applicant will be asked to withdraw together with all other parties present. If it is necessary to recall any party to provide further information or clarification all parties at the hearing must be invited to return.
8. When the Sub-Committee has reached its conclusions the parties will be recalled and its decision will be announced to the applicant, accompanied by, as appropriate, a description of any conditions which are to be attached to the grant of a Licence/Consent.

## ANNEX C

### STREET TRADING CONSENT STANDARD CONDITIONS

#### LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

Street Trading Consents are issued by this Council subject to the following Standard Conditions, in so far as they do not conflict with, or are amended by, any special conditions imposed on the grant of a Consent:-

Nothing herein contained shall prejudice the rights, powers, duties and obligations of the Council or any other enforcing authority under any public or private statutes, orders, regulations or byelaws.

- The Consent shall be valid for the period specified in the Consent, but this period shall not exceed 12 months.
- The Consent may be revoked by the Council at any time, including as a result of a breach of these conditions.
- A Consent shall be required for each trading unit (e.g. each vehicle or stall).
- A Consent shall not be assigned or transferred.
- Street trading must only be carried on by the Consent Holder or by a person engaged by the Consent Holder to assist in their trading.
- The Consent Holder must provide the name, address, date of birth and a photograph of any person assisting them with their trading on a regular basis.
- Any person assisting a Consent Holder on a regular basis must be at least 17 years of age.
- Consent Holders, and any person assisting them on a regular basis, shall at all times, clearly and visibly display a valid identification badge. The badge is to be issued by the Council.
- The Council may vary or make additions to the Conditions or a Consent at any time.
- The Consent shall be limited to the days of the week, and between the hours each day, as stated on the Consent.
- The Consent Holder and/or his assistants shall only sell, or offer for sale, those goods specified in the Consent granted to the Consent Holder.
- The Consent Holder, and/or his assistants, shall only trade at the location(s) specified in the Consent.
- The Consent Holder, and/or his assistants, must not cause an obstruction of any street or endanger any person using it.

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- The Consent Holder, and/or his assistants, must not cause nuisance (whether from noise, smell, litter or light) or annoyance by reason of the street trading activity, whether to persons using or living in the street or otherwise. In particular, but without prejudice to the generality of the foregoing, the Consent Holder shall ensure that his customers or patrons conduct themselves in an orderly manner.
- Where a trader trades from a fixed location, at least one refuse container must be provided for use by customers.
- When leaving a site the trader shall ensure that the locations in the immediate vicinity of where he has been trading are clear of refuse and waste arising from the trading.
- Traders must arrange the removal and disposal of waste arising from their trading in a lawful manner and produce evidence of any relevant trade waste agreement when required by an Authorised Officer or the Council.
- No waste matter shall be discharged onto a street or be allowed to enter a highway drain.
- The use and storage of liquefied petroleum gas shall comply with all current, relevant legislation and Codes of Practice.
- No television, radio, tape player or other device used for the entertainment of the Operator, shall be audible outside, or beyond, the trading unit.
- All signs advertising the business must be no more than 75 metres from the trading unit.

**NOTE:** The requirements as to signs advertising the business do not imply the right to display such signs which may require a necessary planning permission.

- At the end of each trading period the trader shall remove any signs advertising the business, with the exception of those attached to the vehicle or stall used for the purposes of the Street Trading Consent.
- No television, radio, tape player or other device used for the reproduction or amplification of sound during trading shall be at a level which causes nuisance or annoyance to persons using or living in the street.
- Any vehicle, stall or container used by the Consent Holder in the course of street trading shall be constructed and maintained to the satisfaction of all reasonable requirements of the Council, the Police, Fire Officer and Highway Authorities as to its construction, safety and appearance.
- The Consent holder or his employee must move his trailer, vehicle, stall or any signage associate with their trading or vacate the site immediately upon the instruction of a Police Officer or Authorised Officer of the Council.

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- The Consent Holder shall at all times maintain a valid Third Party Public Liability Insurance Policy to the satisfaction of the Council and shall produce a valid certificate of such insurance at any time upon request by an authorised Officer of the Council.
- The Consent Holder must ensure any gas and electrical installations are properly maintained and the relevant safety certificates must be produced on request from an Authorised Officer of the Council.
- The Consent Holder, and/or assistants, shall not trade whilst intoxicated and should behave in a civil and orderly manner at all times when trading.
- Consent holders, and any/or assistants, should wear clean and appropriate clothing.
- The Consent Holder must notify the Council within 7 days if any of the information provided when applying for the consent changes.

A Street Trading Consent does not operate as a consent for any purpose other than to permit the holder to trade on a Consent Street in accordance with any conditions imposed. The Consent Holder must ensure that he has obtained any other consent, approval or registration required under any other statutory provision relevant to his trade.

In these conditions "Consent" means a consent issued under Paragraph 7 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982; "Consent Holder" means the person named on the Street Trading Consent issued by the Council and any person employed by him to assist in his trading; "Council" means the Bromsgrove District Council.

## **LICENSING COMMITTEE**

**13th March 2017**

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### **13th March 2017**

Draft Revised Street Trading Policy – Approval for Consultation

Legislative Update Report

### **To Be Allocated To Suitable Available Dates in 2017/2018**

Hackney Carriage and Private Hire Penalty Points Scheme – Results of Consultation

Annual Report 2016/2017

Review of Policy on the Relevance of Convictions for Hackney Carriage and Private Hire Drivers

Results of Consultation on Revised Street Trading Policy

Equality Act 2010 – Section 167 – List of Wheelchair Accessible Vehicles

12 month review following the public awareness raising campaign (Jan / Feb 2017) on Wheelchair Accessible Vehicles (WAV's) – Update report.

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