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## **BROMSGROVE DISTRICT COUNCIL**

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

**MONDAY 22ND JULY 2024**

**AT 6.00 P.M.**

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

**MEMBERS:** Councillors S. R. Colella, A. M. Dale, J. Elledge, S. M. Evans,  
D. J. A. Forsythe, D. Hopkins, C.A. Hotham, H. J. Jones,  
B. Kumar, B. McEldowney and H. D. N. Rone-Clarke

**Members, please note that the political balance is due to be reviewed at Full Council on Wednesday 17th July 2024. Therefore, the membership of this Committee may change.**

### **AGENDA**

1. Election of Chairman
2. Election of Vice-Chairman
3. To receive apologies for absence and notification of substitutes

4. 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.

5. To confirm the accuracy of the minutes of the meeting of the Licensing Committee held on 25th March 2024 (Pages 7 - 14)

6. Business and Planning Act 2020 - Draft Policy on Pavement Licensing (Pages 15 - 44)

7. Mandatory Safeguarding Awareness Training for Hackney Carriage and Private Hire Drivers (Pages 45 - 52)

8. Renewal of Licences for Hackney Carriage and Private Hire Vehicles that have previously been written off (Pages 53 - 82)

9. Licensing Committee Work Programme 2024/2025 (Pages 83 - 84)

10. 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.

11. To consider, and if considered appropriate, to pass the following resolution to exclude the public from the meeting during the consideration of item(s) of business containing exempt information:-

**"RESOLVED:** that under Section 100 I of the Local Government Act 1972, as amended, the public be excluded from the meeting during the consideration of the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Part I of Schedule 12A to the Act, as amended, the relevant paragraph of that part, in each case, being as set out below, and that it is in the public interest to do so:-

<u>Item No.</u>	<u>Paragraph</u>	
12	5	"

12. Any Enforcement / Appeals Updates - Verbal

Sue Hanley  
Chief Executive

Parkside  
Market Street  
BROMSGROVE  
Worcestershire  
B61 8DA

11th July 2024

**If you have any queries on this Agenda please contact  
Pauline Ross  
Democratic Services Officer**

**Parkside, Market Street, Bromsgrove, B61 8DA  
Tel: 01527 881406  
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**If you have any questions regarding the agenda or attached papers,  
please do not hesitate to contact the officer named above.**

**Notes:**

**Although this is a public meeting, there are circumstances when the  
Committee might have to move into closed session to consider exempt  
or confidential information. For agenda items that are exempt, the  
public are excluded.**



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# Agenda Item 5

Licensing Committee  
25th March 2024

## **BROMSGROVE DISTRICT COUNCIL**

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

**MONDAY, 25TH MARCH 2024, AT 6.00 P.M.**

PRESENT: Councillors J. Elledge (Chairman), B. McEldowney (Vice-Chairman), A. M. Dale (during Minute No's part of 41/23 to 44/23), S. M. Evans, D. J. A. Forsythe, D. Hopkins, C.A. Hotham, B. Kumar, S. R. Peters, S. A. Robinson and H. D. N. Rone-Clarke

Officers: Ms. N Cummings, Mr. N. McMenamin and Mrs. P. Ross

38/23 **TO RECEIVE APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTES**

No apologies for absence were received.

39/23 **DECLARATIONS OF INTEREST**

Councillors C. A. Hotham and H. D. N. Rone-Clarke asked for it to be noted that with regard to Agenda Item Number 5 (Minute No. 42/23), Gambling Act 2005 – Review of Statement of Principles; that they both attended Barnt Green Social Club.

40/23 **MINUTES**

The minutes of the Licensing Committee meeting held on 12<sup>th</sup> January 2024 were submitted.

**RESOLVED** that the minutes of the Licensing Committee meeting held on 12<sup>th</sup> January 2024, be approved as a correct record.

41/23 **HACKNEY CARRIAGE STAND IN MARKET STREET SERVICE ROAD - CONSIDERATION OF OBJECTIONS / REPRESENTATIONS**

The Committee received an update report with regard to representations or objections received to the advertisement of the proposal to amend the District Council of Bromsgrove (Hackney Carriage Stands) Order 2020 (No.1).

The Principal Officer (Licensing), Worcestershire Regulatory Services (WRS), reminded Members that: -

On 12<sup>th</sup> January 2024, Licensing Committee Members had instructed officers to carry out the required consultation and to arrange for the

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required public notice to appear in a local newspaper; of the proposal to amend the District Council of Bromsgrove (Hackney Carriage Stands) Order 2020 (No.1).

Licensing Committee Members had also agreed that should any representations or objections to the proposal be received, that these would be brought back before Licensing Committee Members for consideration before a decision was taken about whether to proceed with the amendment being made to the Order.

The advertisement of the proposal was now completed and one representation had been received, as detailed at Appendix 4 to the report.

The representation questioned the process that was followed to advertise the proposed changes. The representation also questioned what impact the proposed changes would have on buses and those that use them, asserting that Crown Close was a very busy area.

The Principal Officer (Licensing) WRS, reassured Members that, as detailed in the report; that the advertising of the proposed changes had been carried out in accordance with the requirements of section 63 of the Local Government (Miscellaneous Provisions) Act 1976.

Members were further informed that officers had been advised that providers of bus services had been consulted with on the proposed changes by relevant officers at Worcestershire County Council and that no objections had been raised.

No objections or representations had been received from West Mercia Police in respect of the proposed changes.

Officers believed that making the proposed change to the stand for hackney carriages would not unreasonably prevent access to any premises and would not impede the use of any points authorised for the taking up or setting down of passengers by a local service or PSV operator's licence.

The following Appendices were also included with the report: -

- |            |   |
|------------|---|
| Appendix 1 | Plan showing original location of hackney carriage stand.   |
| Appendix 2 | Drawing showing intended layout of hackney carriage stand from 2020.                                |
| Appendix 3 | Drawing showing proposed location of the additional space for a hackney carriage to stand for hire. |



Appendix 5 Excerpt from “Inclusive Mobility - A Guide to Best Practice on Access to Pedestrian and Transport Infrastructure.”

In response to several questions from Committee Members, with regard to public safety and potential passengers getting into a hackney carriage that was ranked on the proposed fifth taxi rank space. The Principal Officer (Licensing), WRS, commented that this should not create an issue.; as passengers using the rank would be expected to use the hackney carriage that was ranked in the first space.

Some Members reiterated this and agreed that passengers would use the hackney carriage ranked in the first space, and should any passengers try and access a hackney carriage ranked in the fifth (or other spaces) would be directed by the licensed driver to use the first hackney carriage vehicle.

The hackney carriage rank was a feeder rank, whereby licensed drivers would use the other four spaces to sit and wait and move along the rank, as soon as the first ranked vehicle was hired.

Some Members felt that it was appropriate that the local resident who had submitted a representation (Appendix 4) be advised that the Committee had taken into account their representation. The Principal Officer (Licensing) WRS, agreed to inform the local resident.

**RESOLVED:**

- a) that officers undertake the required legal processes to make, alter or revoke the District Council of Bromsgrove (Hackney Carriage Stands) Order 2020 (No.1) as necessary in order to implement the additional space for hackney carriages to stand for hire, as detailed at Appendix 3 to the report.

42/23

**GAMBLING ACT 2005 - REVIEW OF STATEMENT OF PRINCIPLES - APPROVAL TO CARRY OUT CONSULTATION**

The Committee considered a report which detailed the Gambling Act – Review of Statement of Principles. Members were asked to approve the draft revised Statement of Principles, as attached at Appendix 1 to the report; for the purpose of consultation with relevant parties, as detailed on page 30 of the main agenda report.

The Principal Officer (Licensing), Worcestershire Regulatory Services (WRS), introduced the report and in doing so informed the Committee that the Council’s current Statement of Principles under the Gambling Act 2005 had taken effect on 31<sup>st</sup> January 2022.

In accordance with the provisions of the Act, the Council was required to determine and publish a Statement of Principles every three years.

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Therefore, a new Statement of Principles must be published by 31<sup>st</sup> January 2025.

Members' attention was drawn to paragraph 3.9 in the report, which detailed that in April 2023, the government published a long awaited white paper entitled 'High Stakes: Gambling Reform for Digital Age', following the review of the Government Act 2005 that was first launched in December 2020.

The white paper contained a number of proposals for reforming Gambling regulation in the following areas:

- Online protections – players and products
- Marketing and advertising
- The Gambling Commission's powers and resources
- Dispute resolution and consumer redress
- Children and young adults
- Land-based gambling

Whilst many of the proposed reforms were not directly relevant to the role that the Council played in the regulation of gambling activities, there were some proposed changes that were directly relevant. These included:

- Proposals to relax the rules on the split of low and medium maximum stake machines in certain licensed gambling premises.
- A review of the premises licence fees cap for local authorities.
- Introducing new powers to local authorities to conduct cumulative impact assessments for gambling premises.
- Proposals to change the rules that allow under 18s to play Category D gaming machines that pay cash prizes.
- Proposals to make provisions within the Gambling Commission's code of practise on the siting of gaming machines in licensed premises legally binding.

Following the publication of the white paper, several different consultations were undertaken by both the Department for Culture, Media and Sport and the Gambling Commission concerning the various proposals for legislative reform.

At this stage however, it was unclear as to when the government would bring forward the required legislation to implement the proposed reforms.

This presented something of a dilemma for licensing authorities such as Bromsgrove District Council, as they were required before each successive three-year period, to prepare and publish a Statement of Principles that they proposed to apply in exercising their functions under

# Agenda Item 5

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the Act during that period. The Council's next Statement of Principles needed to be prepared and published before 31<sup>st</sup> January 2025.

As the timescales for legislation to be brought forward were unclear at this stage, officers were recommending that no substantive changes be made to the Statement of Principles at the present time and therefore very few changes were proposed in the draft Statement of Principles as detailed at Appendix 1 to the report.

The only changes that officer's believed need to be made at the present time were as follows:

- Updating the dates shown on the front page.
- Updating the population figure given in the introduction to reflect the latest census figures.
- Updating the dates between which consultation on the draft statement of principles will have taken place.
- Updating the list of consultees at Appendix B of the statement of principles to include additional gambling and other relevant trade associations.

As well as having to prepare and publish a new Statement of Principles before every successive three-year period, licensing authorities were also able to review their statements during those three-year periods and revise the statement at any point in time if necessary.

Whilst officers did not believe that any substantive changes were required to the Statement of Principles at this present time, it was considered highly likely that a revised Statement of Principles would need to be prepared and published between 31<sup>st</sup> January 2025 and 31<sup>st</sup> January 2028 in order to make any revisions that may be necessary as a result of any regulatory reforms enacted in connection with the proposals set out in the white paper.

In light of this, only minor revisions had been included in the draft Statement of Principles.

Consultation on the revised draft Statement of Principles would take place with all of the relevant parties, as detailed in paragraph 3.20 of the report. The consultation would also be made available for comment via the Council's website and published via social media and local press. Given that the proposed changes to the existing Statement of Principles were very minor, the consultation would be carried out over a period of six to eight weeks.

Any responses received to the consultation would be presented to a future meeting of the Licensing Committee.

It was noted that the facing page of the Draft Statement of Principles showed 2022 – 2025 and that this needed to be amended to 2025 – 2028.

The Principal Officer (Licensing), WRS, explained that the minor changes would be highlighted in the draft Statement of Principles, enabling those consulted with to clearly see the changes.

Councillor H. D. N. Rone-Clarke queried the wording in paragraph 23.3 of the draft Statement of Principles, Members agreed that the wording be amended to include the word 'and':

"23.3 An arrangement is a complex lottery if:

- persons are required to pay to participate
- one or more prizes are allocated to one or more members of a class
- the prizes are allocated by a series of processes **and**
- the first of those processes relies wholly on chance".

**RESOLVED** that subject to the amendments as detailed in the preamble above, that the draft revised Statement of Principles, as detailed at Appendix 1 to the report, be approved for the purpose of consultation with relevant parties.

43/23

## **LICENSING COMMITTEE WORK PROGRAMME - MARCH 2024**

The Committee considered the Work Programme for 2023/2024.

Councillor D. Hopkins briefly explained that having chaired a recent Licensing Sub-Committee (Taxi) Hearing, several questions were raised with regards to the Council's Hackney Carriage and Private Hire Licensing Policy, with regard to the renewing of a vehicle licence for Hackney Carriage vehicles that had been graded as Category 'C' and 'S' write offs for insurance purposes.

Due to a change in the Council's Hackney Carriage and Private Hire Licensing Policy in September 2022, vehicles previously licensed by the Council, were now having to come before Sub-Committee Members for their renewal applications to be considered. The taxi trade had commented that this was unfair to drivers who had already had their applications approved under the Council's previous policy.

Therefore, could it be included on the Licensing Committee Work Programme 2024/2025, for Members consideration. Giving Members the opportunity to look at the Hackney Carriage and Private Hire Licensing Policy wording with regard to vehicles that were graded as Category 'C' and 'S' write offs; and to consider introducing 'Grandfather' rights'.

On being put to the vote, it was

**RESOLVED** that the Licensing Committee Work Programme for 2024/2025, be updated to include the item discussed and agreed, as detailed in the preamble above.

44/23

**ANY ENFORCEMENT / APPEALS UPDATES - VERBAL**

There were no Enforcement / Appeals updates.

The meeting closed at 6.35 p.m.

Chairman

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**BUSINESS AND PLANNING ACT 2020**  
**DRAFT POLICY ON PAVEMENT LICENSING**

Relevant Portfolio Holder	Councillor Taylor
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**

- 1.1 The Council has been given responsibility for the issuing of pavement licences under the Business and Planning Act 2020. The licensing regime, which was implemented during the Covid-19 pandemic and was intended to be temporary, has now been made permanent.
- 1.2 Members are asked to consider and approve a draft Policy on Pavement Licensing for the purpose of consultation with relevant stakeholders.

**2. RECOMMENDATIONS**

- 2.1 **Members are asked to RESOLVE;**

**To approve the draft Policy on Pavement Licensing shown at Appendix 1 for the purpose of consultation with relevant stakeholders.**

**3. KEY ISSUES**

**Financial Implications**

- 3.1 The costs involved in carrying out the consultation would be met from existing budgets held by Worcestershire Regulatory Services.
- 3.2 The resource implications for Worcestershire Regulatory Services arising from the implementation and ongoing administration of the permanent regime, may need to be reflected in the Council's future contributions to the Worcestershire Regulatory Services budget.

- 3.3 The Business and Planning Act 2020 contains provisions allowing Councils to charge fees for the grant and renewal of licences to recover the costs of administering the licensing regime. Certain costs associated with removing and storing furniture placed on the highway without authorisation, can also be recovered by the charging of fees.

**Legal Implications**

- 3.4 It is considered best practice to have in place a clear and transparent policy that sets out the approach the Council takes in respect of its pavement licensing functions.
- 3.5 It is also considered best practice to carry out consultation on any such policy before it is implemented, in order to minimise the risks of any legal challenge to any aspects of that policy.

**Service / Operational Implications**

- 3.6 In July 2020 the Business and Planning Act 2020 was enacted. The legislation was expedited through Parliament to make provisions relating to the promotion of economic recovery and growth as the country emerged from various restrictions that had been put in place in response to the global Covid-19 pandemic.
- 3.7 Part 1 of the Act introduced provisions in England and Wales that put in place a streamlined process to enable businesses to obtain permission to place removeable furniture on the highway for use in connection with the sale and consumption of food and drink. The need for a streamlined process was to ensure that hospitality businesses could maximise their opportunities to trade profitably at a time when social distancing requirements guidance remained in place which impacted the number of customers that they could accommodate inside their premises.
- 3.8 Responsibility for issuing the new “pavement licences” was given to district councils in England, including Bromsgrove District Council.
- 3.9 As previously mentioned, the legislation was put in place very quickly and was commenced as soon as it was enacted. That meant that there was very little time available to put in place policies and procedures for dealing with applications.



- 3.10 Worcestershire Regulatory Services agreed to take on the temporary pavement licensing functions on behalf of the Council as they were best placed to do so given that they were already carrying out functions on the Council's behalf under the Licensing Act 2003.
- 3.11 Officers worked at pace to draft policies, application forms, licence templates and website content to enable businesses to be able to apply for pavement licences as soon as possible after the legislation came into force. The policies were approved under emergency delegations in place at the time to allow them to come into effect as quickly as possible.
- 3.12 The provisions in part 1 of the Business and Planning Act 2020 were only originally intended to remain in place for a temporary period, and section 10 of the Act originally stated that the provisions would expire at the end of 30 September 2021.
- 3.13 However, the temporary regime was subsequently extended on three separate occasions before a decision was taken to make it a permanent licensing regime. The regime was made permanent on 31 March 2024 by virtue of the commencement of provisions made in the Levelling Up and Regeneration Act 2023.
- 3.14 At the same time as making the regime permanent, some important amendments were made to the pavement licensing regime including extending the consultation and determination periods in respect of applications from 7 to 14 days each. The permanent regime also contains new powers to serve notices and remove furniture when it has been placed on the highway without permission.
- 3.15 Now that the pavement licensing regime has been made permanent, it is necessary to review and revise the Council's Policy on Pavement Licensing to ensure that it is fit for purpose and reflects the amendments that have been made to the regime since it was first introduced.
- 3.16 A draft Policy on Pavement Licensing has been prepared by officers and can be seen at **Appendix 1**. The draft policy is based on a template that has been created to form the basis for similar policies across all six district Councils in Worcestershire.
- 3.17 The draft policy has been drafted with reference to the guidance on pavement licences published by the Department for Levelling Up, Housing and Communities (DLUHC) on 2<sup>nd</sup> April 2024 under section 8 of the Business and Planning Act 2020. This guidance can be seen at: [www.gov.uk/government/publications/pavement-licences-guidance/pavement-licences-guidance](http://www.gov.uk/government/publications/pavement-licences-guidance/pavement-licences-guidance).

- 3.18 The first two sections of the draft policy set out the background to the licensing regime, explains the scope and provides assistance in understanding key terms from the legislation that are used throughout the document.
- 3.19 The draft policy goes on to set out how people apply for a licence, how those applications will be advertised and consulted upon and how they will be determined. The draft policy also sets out the standard duration of licences and the conditions that licences that are granted or deemed to have been granted, will be subject to.
- 3.20 The draft policy also sets out the approach that will be taken in respect of compliance and enforcement activities in respect of the pavement licensing regime.
- 3.21 Before approving the draft policy on pavement licensing, it is considered best practice to carry out a consultation exercise with key stakeholders, relevant businesses and the wider public. This consultation exercise is envisaged to take place over a period of around 8 to 10 weeks and will invite respondents to express their views on the various matters set out in the policy including:
- The requirements for making an application
  - The advertising of, and consultation on applications
  - The standard licence duration
  - The standard conditions that will apply to licences granted or deemed to be granted
  - The approach that will be taken to compliance and enforcement activities
- 3.22 The results of the consultation exercise will be reported back to the Licensing Committee for consideration before Members are asked to approve the policy to take effect.

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

- 4.1 Failing to carry out proper consultation on a policy of this nature before it is implemented, would increase the risk of the policy being subject to a successful legal challenge.

5. **APPENDICES**

Appendix 1 - Draft Policy on Pavement Licensing

**AUTHOR OF REPORT**

Name: Dave Etheridge – Principal Officer (Licensing)  
Worcestershire Regulatory Services

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District Council

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**\*\*\* DRAFT \*\*\***

## **POLICY ON PAVEMENT LICENSING**

### **BUSINESS AND PLANNING ACT 2020**

**APPROVED WITH EFFECT FROM: DATE TO BE CONFIRMED**

**BROMSGROVE DISTRICT COUNCIL**  
**POLICY ON PAVEMENT LICENSING**  
**BUSINESS AND PLANNING ACT 2020**

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## 1.0 BACKGROUND AND INTRODUCTION

- 1.1 Pavement licences are issued by the Council under the provisions of the Business and Planning Act 2020.
- 1.2 The Business and Planning Act 2020 created a streamlined process to allow businesses to apply for a licence to place removable furniture over certain highways adjacent to a premises in relation to which the application is made, for certain purposes.
- 1.3 The Business and Planning Act 2020 was originally passed in summer 2020 in response to the significant adverse impacts the Covid-19 pandemic was having on businesses in the hospitality sector and was originally only intended to be in place for a short period of time. The purpose of the legislation was to make it quicker and simpler for businesses such as cafes, restaurants and bars to secure a licence to place furniture on the highway.
- 1.4 The Levelling Up and Regeneration Act 2023 made permanent the provisions set out in the Business and Planning Act 2020 and it is hoped that this will provide much needed ongoing support for businesses and protect as many hospitality jobs as possible, particularly during times of increasing living costs.
- 1.5 This policy sets out the Council's approach to its functions and responsibilities with regard to the issue of pavement licences in its area. The policy document sets out a number of relevant matters including:
  - The Council's interpretation of the scope of, and key terms in, the relevant legislation
  - The Council's requirements in respect of applications for licences
  - The general approach and matters that the Council will take into account when determining applications for licences, including those who will be consulted
  - The conditions that the Council will attach to licences granted or deemed to be granted
  - The Council's approach to enforcement and revocation of licences
- 1.6 In formulating this policy, the Council has had due regard to the guidance issued by the Secretary of State under section 8 of the Business and Planning Act 2020.

## 2.0 SCOPE OF THE LICENSING REGIME AND DEFINITION OF KEY TERMS

### What businesses can apply for licences?

- 2.1 Pavement licences can be applied for by businesses that use (or propose to use) premises for the sale of food or drink for consumption on or off the premises. Businesses that are eligible include public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours including where such uses form an ancillary aspect of another use, for example supermarkets or entertainment venues that also sell food or drink.
- 2.2 Businesses that do not use their premises for the sale of food or drink, for example hairdressing salons, are ineligible. However these businesses can apply to the relevant highway authority for permission to place furniture on the pavement under provisions contained in part 7A of the Highways Act 1980.

### What furniture can be permitted by a licence?

- 2.3 A pavement licence can only permit the business to place removable furniture on a relevant highway. The Business and Planning Act 2020 states that furniture means:
- (a) counters or stalls for selling or serving food or drink,
  - (b) tables, counters or shelves on which food or drink can be placed,
  - (c) chairs, benches or other forms of seating, and
  - (d) umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink;
- 2.4 This furniture is required to be removable and related to the serving, sale and consumption of food or drink.
- 2.5 The Council will take a pragmatic common-sense approach when determining whether furniture is genuinely “removable.” However, in order to be considered removable, the Council expects any furniture to be capable of being moved easily and stored away from the relevant highway each night. Furniture that is fixed to either the ground or to walls, for example with screws or bolts, will not be considered by the Council to be removable furniture.

### What furniture is not capable of being permitted by a pavement licence?

- 2.6 Any furniture that is not removable or that is not used in connection with the outdoor selling or consumption of food or drink are not permissible by a pavement licence.
- 2.7 Advertising boards are not included in the definition of furniture within the pavement licensing regime. As well as needing consent under the Highways Act 1980, advertising boards also require express advertising consent under the Town and Country Planning Regulations 2007.
- 2.8 Applicants that wish to place non-removable furniture onto the highway must apply to the relevant highway authority for permission under the Highways Act 1980.



## Where can a licence allow furniture to be placed?

- 2.9 A pavement licence can authorise the placing of removable furniture on part of a relevant highway adjacent to the applicable premises.
- 2.10 The Business and Planning Act 2020 states that “**relevant highway**” means a highway –
- (a) to which Part 7A of the Highways Act 1980 applies, and
  - (b) which is not over Crown land or maintained by Network Rail.
- 2.11 When determining whether the part of the relevant highway is “**adjacent**” to the applicable premises, the Council will adopt a pragmatic approach and consider each case on its merits. In doing so all relevant factors will be considered including:
- How far the part of the relevant highway is from the frontage of the applicable premises;
  - What lies between the part of the relevant highway and the frontage of the applicable premises; and
  - What other businesses that are eligible to apply for a pavement licence are located in the vicinity of the premises that is the subject of the application.

## Interaction with section 115E of the Highways Act 1980

- 2.12 Section 115E of the Highways Act 1980 enables the relevant highway authority (Worcestershire County Council) to grant a person permission to use objects or structures on, in or over the highway:
- for a purpose which will result in the production of income;
  - for the purpose of providing a centre for advice or information; or
  - for the purpose of advertising.
- 2.13 However, section 115E (5) of the Highways Act 1980 states that:
- “A council may not under this section grant a person permission to do anything which is capable of being authorised by a pavement licence under section 1 of the Business and Planning Act 2020”
- 2.14 Therefore, where someone is wishing to place removable furniture on part of a relevant highway in circumstances that fall in scope of the Business and Planning Act 2020, they must apply for a pavement licence under that legislation.
- 2.15 In circumstances where someone wishes to use objects or structures on the highway that are not within scope of the Business and Planning Act 2020, they will not be able to apply for a pavement licence, but may be able to obtain permission under section 115E of the Highways Act 1980. Any such requests for permission must be made to Worcestershire County Council who are the relevant highway authority for the area.

## 3.0 APPLYING FOR A LICENCE

### Types of application

- 3.1 The process that someone needs to follow to apply for a pavement licence will depend on whether the application is an application for the grant of a licence or for renewal of a licence.
- 3.2 In order to be considered a renewal application, an application must:
- (a) be made by a person who already holds a pavement licence,
  - (b) be in respect of the premises to which the existing licence relates, and
  - (c) be for a licence to begin on the expiry of the existing licence and on the same terms.
- 3.3 A renewal application must therefore be made before the existing licence has expired. If the existing licence has already expired when the application is made, it will not be treated as a renewal application and will instead be treated as an application for the grant of a licence.
- 3.4 Likewise, if the licence holder wishes to change any of the terms of their licence, including amending the part of the relevant highway that the licence permits the furniture to be placed, then the application will not be treated as a renewal application and will instead be treated as an application for the grant of a licence.

### Applying for the GRANT of a pavement licence:

- 3.5 Applications must be made on the Council's standard application form and must be submitted electronically to [enquiries@worcsreqservices.gov.uk](mailto:enquiries@worcsreqservices.gov.uk) along with the required supporting documentation and evidence that the required application fee has been paid.
- 3.6 Applications for the grant of a licence must be accompanied by:
- A plan showing the location of the premises shown by a red line, so the application site can be clearly identified
  - A plan clearly showing the proposed area covered by the licence in relation to the highway, if not to scale, with measurements clearly shown. The plan must show the positions and number of the proposed tables and chairs, together with any other items of furniture that they wish to place on the highway. The plan shall include clear measurements of, for example, pathway width/length, building width and any other fixed item in the proposed area.
  - A copy of a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million,
  - Photos or brochures showing the proposed type of furniture (including the means of enclosure such as barriers) and information on potential siting of it within the area applied.

- Evidence of consent from neighbouring frontager(s) to use footway space outside their property (if applicable).

3.7 The application fee is non-refundable in the event that the application is refused or withdrawn or if any licence granted is subsequently surrendered or revoked.

3.8 An application will not be considered complete until the application form, all required documents and the application fee have all been received. The public consultation period will not commence until the day after a **complete** application has been made.

Applying for the RENEWAL of a pavement licence:

3.9 Applications must be made on the Council's standard application form and must be submitted electronically to [enquiries@worcsregservices.gov.uk](mailto:enquiries@worcsregservices.gov.uk) along with the required supporting documentation and evidence that the required application fee has been paid.

3.10 Applications for the grant of a licence must be accompanied by:

- A copy of a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million,

3.11 The application fee is non-refundable in the event that the application is refused or withdrawn or if any licence granted is subsequently surrendered or revoked.

3.12 A renewal application will not be considered complete until the application form, all required documents and the application fee have all been received. The public consultation period will not commence until the day after a **complete** application has been made.

## 4.0 ADVERTISING AND CONSULTING ON APPLICATIONS

4.1 The Act requires an applicant for a pavement licence to

- (a) On the day the application is made, fix a notice of the application to the premises so that the notice is readily visible to, and can be read easily by, members of the public who are not on the premises, and
- (b) Secure that the notice remains in place until the end of the public consultation period which means the period of 14 days beginning with the day after that on which the application is made.

4.2 A template notice for use by applicants can be found at **Annex A** of this policy.

4.3 Before determining an application, the Council will consult with the following bodies:

- Worcestershire County Council (the highway authority)
- West Mercia Police
- Hereford and Worcester Fire and Rescue Service
- Environmental Health Officers at Worcestershire Regulatory Services
- Bromsgrove Centres' Manager
- Any relevant Business Improvement District (where applicable)
- The relevant Ward Member(s) for the Borough Council

4.1 Details of applications received and the relevant public consultation periods for each application will also be published at:

[www.worcsregservices.gov.uk/licensing/pavement-licences.aspx](http://www.worcsregservices.gov.uk/licensing/pavement-licences.aspx)

## 5.0 DETERMINING APPLICATIONS

5.1 The Council recognises the aims of the Business and Planning Act 2020 and wants to support relevant businesses to achieve growth and economic prosperity in the hospitality sector. The Council will therefore seek to grant applications for licences where possible.

5.2 However, this general approach has to be balanced with the need to ensure that the issuing of pavement licences:

- Does not put public health or safety at risk;
- Does not lead to anti-social behaviour or public nuisance; and,
- Ensures that the public, particularly those with disabilities such as sight impairment, are unhampered when walking along streets.

5.3 The Council will consider all of the relevant circumstances in determining applications and will treat each case on its merits.

5.4 In particular the Council will consider whether the licence holder is able to comply with the both the Council's published standard licence conditions and the statutory licence conditions set out in section 5 (5) and section 5 (6) of the Business and Planning Act 2020.

5.5 The Council's standard licence conditions are shown in full at Annex B.

5.6 The statutory licence conditions are: a no-obstruction condition and a smoke-free seating condition. The statutory licence conditions are shown in full at Annex C.

5.7 When determining individual applications, the Council will also have regard to the guidance issued by the Secretary of State under section 8 of the Business and Planning Act 2020.

5.8 The Council will not grant a licence when doing so would lead to any of the following effects:

- (a) preventing traffic, other than vehicular traffic, from—
  - (i) entering the relevant highway at a place where such traffic could otherwise enter it (ignoring any pedestrian planning order or traffic order made in relation to the highway),
  - (ii) passing along the relevant highway, or
  - (iii) having normal access to premises adjoining the relevant highway,
- (b) preventing any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order,
- (c) preventing statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or
- (d) preventing the operator of an electronic communications code network having access to any electronic communications apparatus kept

installed for the purposes of that network under, in, on or over the highway.

- 5.9 When considering whether furniture put on a relevant highway by a licence holder pursuant to a pavement licence has or would have the effect referred to in paragraph (a) above, the Council will have regard in particular to the needs of disabled people, and the recommended distances required for access by disabled people as set out in guidance issued by the Secretary of State.
- 5.10 This list is not exhaustive, and the Council may refuse an application on other grounds including (but not limited to) where the granting of the licence would put at risk public health or safety, lead to antisocial behaviour or public nuisance or unreasonably hamper pedestrian's ability to move freely.
- 5.11 The Council will consider any objections or comments received in respect of the application during the public consultation period, whether made by the bodies consulted or any other person, before the application is determined.
- 5.12 Given the important role it undertakes in maintaining the safety of users of the highway, it is extremely unlikely that a licence will be granted or renewed where objections to an application are received from the highway authority, but in all cases the thoughts of all consultees will be considered.
- 5.13 Having considered any objections or comments received in respect of the application, the Council may:
  - a) Grant a licence subject to the standard conditions
  - b) Grant a licence subject to the standard conditions and any other reasonable conditions that are considered appropriate in the circumstances of the case
  - c) Refuse the application

## **6.0 LICENCES DEEMED TO BE GRANTED**

- 6.1 The Council aims to determine all applications within the determination period provided by the Act. That means that applications will be granted or refused within the period of 14 days beginning with the first day after the public consultation period has ended.
- 6.2 However, if the Council does not make a determination by the end of the determination period, section 3 (9) of the Act provides that the licence for which the application was made is deemed to be granted by the Council to the applicant.

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## 7.0 LICENCE DURATION AND CONDITIONS

### Duration of licences

- 7.1 Unless previously surrendered or revoked, all licences granted by the Council will be valid for a period of two years and will then expire.
- 7.2 Unless previously surrendered or revoked, any licence deemed granted under section 3 (9) of the Act will be valid for two years starting with the first day after the determination period.

### Licence conditions

- 7.3 All pavement licences whether granted or deemed granted, will be subject to the Council's published standard conditions. These are published at **Annex B** to this policy statement.
- 7.4 All pavement licences whether granted or deemed granted, will also be subject to the statutory conditions provided for under section 5(4) of the Business and Planning Act 2020. The statutory conditions are shown at **Annex C** to this policy statement.
- 7.5 In addition to the standard conditions and statutory conditions, further reasonable conditions may be attached to individual licences as the Council considers appropriate in the circumstances of the case having regard to any comments or objections received during the public consultation period. The need for further conditions beyond the standard conditions will be considered on a case-by-case basis.



## 8.0 COMPLIANCE AND ENFORCEMENT

### Putting removable furniture on part of a relevant highway without permission

- 8.1 In cases where removable furniture which would normally be permitted by a pavement or other licence has been placed on a relevant highway without the required licence, appropriate advice will be given to the relevant business on how they can apply for a licence.
- 8.2 If no licence application is received and the furniture continues to be placed on a relevant highway without the required licence, the Council can give notice requiring the business to remove the furniture before a date specified and to refrain from putting furniture on the highway unless they gain a licence.
- 8.3 If furniture continues to be placed on the highway, in violation of the notice, the Council may remove and store the furniture, recover the costs from the business for the removal and storage of the furniture and refuse to return the furniture until those costs have been paid.
- 8.4 If within 3 months of the notice, the costs are not paid, the authority can dispose of the furniture by sale or other means and retain the proceeds.

### Breaches of licence condition

- 8.5 The Council will always seek to rectify any issues arising as a consequence of the activities authorised by a pavement licence by engaging in informal discussions with the licence holder in the first instance.
- 8.6 However, if this informal approach does not resolve the issues in a satisfactory way, then formal action can be taken as detailed below.
- 8.7 If the Council considers that a licence-holder has breached any condition of the licence, the authority may—
- (a) revoke the licence, or
  - (b) serve a notice on the licence-holder requiring the taking of such steps to remedy the breach as are specified in the notice within such time as is so specified.
- 8.8 If a licence-holder on whom an enforcement notice is served fails to comply with the notice, the Council may—
- (a) revoke the notice, or
  - (b) take the steps itself and recover the costs of doing so from the licence holder.

8.9 The Council may also revoke the licence if it considers that—

- (a) some or all of the part of the relevant highway to which the licence relates has become unsuitable for any purpose in relation to which the licence was granted or deemed to be granted,
- (b) as a result of the licence—
  - (i) there is a risk to public health or safety, or
  - (ii) anti-social behaviour or public nuisance is being caused or risks being caused,
  - (iii) the highway is being obstructed (other than by anything done by the licence-holder pursuant to the licence),
- (c) anything material stated by the licence-holder in their application was false or misleading, or
- (d) the licence-holder did not comply with the duty to advertise their application.

8.10 The Council may also, with the consent of the licence-holder, amend a licence if it considers that—

- (a) some or all of the part of the relevant highway to which the licence relates has become unsuitable for any purpose in relation to which the licence was granted or deemed to be granted,
- (b) as a result of the licence—
  - (i) there is a risk to public health or safety, or
  - (ii) anti-social behaviour or public nuisance is being caused or risks being caused,
  - (iii) the highway is being obstructed (other than by anything done by the licence-holder pursuant to the licence),
- (c) a no-obstruction condition of the licence is not being complied with.

8.11 All enforcement activity will be undertaken in line with the principles set out in the Regulator's Code and with regard to any relevant enforcement policies in place.

## 9. EQUALITIES

- 9.1 Under the Equality Act 2010 it is against the law to discriminate against anyone because of age, gender reassignment, being married or in a civil partnership, being pregnant or on maternity leave, disability, race including colour, nationality, ethnic or national origin, religion or belief, sex, or sexual orientation.
- 9.2 The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities.
- 9.3 The licensing authority has had regard to this duty when publishing this statement of policy and will have regard to the duty when determining applications for pavement licences under the Business and Planning Act 2020.
- 9.4 The licensing authority will also look to discharge this duty by making suitable arrangements where requested to provide information in a format that meet the requirements of those with special needs such as large type, audio information and information in foreign languages. Specific needs will be dealt with on an individual basis.
- 9.5 In the design and layout of their premises and any areas of the highway used to place furniture, applicants and licence holders are encouraged to consider access and facilities for customers with protected characteristics.
- 9.6 Any person who is concerned that a premises is failing to comply with the Equality Act should make their complaint to the premises in the first instance. Advice can also be sought from the Equality Advisory Support Service (EASS) - [www.equalityadvisoryservice.com](http://www.equalityadvisoryservice.com)

## 10. RIGHTS OF APPEAL

- 10.1 The Business and Planning Act 2020 does not provide any statutory right of appeal against a decision to refuse or revoke a pavement licence. Nor is there a statutory right of appeal against any enforcement notice served on a licence holder.
- 10.2 However, clear and justifiable reasons will always be provided if a licence is refused or revoked, or if an enforcement notice is served on a licence holder.

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## 11. PLANNING PERMISSION

- 11.1 If a pavement licence is granted, or deemed to be granted, the applicant will also benefit from deemed planning permission to use the land for anything done pursuant to the licence while the licence is valid and remains in force.

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## 12. HAZARDS OR OBSTRUCTIONS ON THE HIGHWAY

- 12.1 Notwithstanding the grant or deemed grant of a licence, the highway authority reserves the right to remove items that present a hazard or obstruction to highway users.

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ANNEX A – TEMPLATE PUBLIC NOTICE

BUSINESS AND PLANNING ACT 2020

NOTICE OF APPLICATION FOR A PAVEMENT LICENCE

I / We .....(1)

Do hereby give notice that on ..... (2)

I / we have applied to Bromsgrove District Council for a pavement licence at:

.....  
..... (3)

Known as..... (4)

The application is for:  
.....  
..... (5)

Any person wishing to make representations to this application may do so by writing to [enquiries@worcsregservices.gov.uk](mailto:enquiries@worcsregservices.gov.uk) by:

..... (6)

The application and information submitted with it can be viewed at:  
[www.worcsregservices.gov.uk/licensing/pavement-licences.aspx](http://www.worcsregservices.gov.uk/licensing/pavement-licences.aspx)

Signed .....

Date ..... (7)

## **Guidance notes on completing this notice of application.**

Complete the notice by putting the following information in the numbered spaces:

- (1) Name of the applicant
- (2) Date the application is made (submitted)
- (3) Postal address of the premises
- (4) Name the premises is known by
- (5) Brief description of application (e.g outdoor seating to the front of the premises for serving of food and drink]).
- (6) Last date for representations being the date 14 days after the date the application is submitted to the local authority.
- (7) The date the notice was placed (must be the same date as (2) above)

On the same day that the application is made, a completed copy of this notice must be fixed to the premises so that it is readily visible to, and can be read easily by, members of the public who are not on the premises, and secure that the notice remains in place until the end of the public consultation period.

**Failure to comply this requirement may lead to the revocation of any licence granted or deemed granted.**



## ANNEX B – STANDARD CONDITIONS FOR PAVEMENT LICENCES

1. The licence must only be used for the purpose of placing removable furniture on the highway to sell or serve food or drink and/or allow it to be used by people for consumption of food or drink supplied from, or in connection with the use of the licence holder's business premises.
2. Furniture may only be placed within the area of the highway identified on the plan that is annexed to the licence.
3. The licence holder must ensure that furniture is positioned in such a way so that staff can service the space regularly for cleaning and other purposes, in a manner that does not compromise their health and safety.
4. Any furniture shall be kept in a clean, safe and well maintained condition. Any canopies or umbrellas must be adequately secured.
5. Any furniture must be made of suitable materials to ensure that it cannot easily be pushed or blown over by the wind and thereby cause obstruction. Lightweight plastic "patio" style furniture is therefore not permitted.
6. Clear routes of access along the footway must be maintained, taking into account the needs of disabled people, and the recommended minimum footway widths and distances suggested by the Department for Transport "Inclusive Mobility" guidance document. A minimum useable footway width of 1.5m must be maintained for pavement users including those using mobility aids such as walking frames, wheelchairs and mobility scooters.
7. The licence holder shall not make excavations or indentations of any description whatsoever in the surface of the highway or place or fix any equipment of any description in the said surface.
8. Unless otherwise specified on the licence, the licence holder must not place any furniture on the highway in pursuance of this licence before 07:00hrs on any day and must remove all furniture placed on the highway in pursuance of this licence when the premises closes or by 23:00hrs on any day, whichever is the earliest.
9. Unless otherwise specified on the licence, all furniture must be stored securely away from the highway between the hours of 23:00hrs and 07:00hrs and at all other times when the premises is closed.
10. The licence holder must observe and comply with any direction made by a Police Officer, Fire and Rescue Officer, or authorised officer of the local authority in relation to the use of the highway, including any direction to remove furniture from the highway. These public bodies will not be liable for any loss of earnings arising as a result of the licence holder being required to comply with such a direction.
11. The licence holder must at all times hold a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million.
12. The area of the highway covered by the licence must be kept clean and tidy at all times. This will include washing down the area, and removing any refuse and litter on the highway in the vicinity of the removable furniture.

13. The licence holder shall not use or allow to be used any music playing, music reproduction or sound amplification apparatus or any musical instruments, radio, or television receiving sets in the area of the highway covered by the licence.
14. The licence holder must not allow customers using the area to engage in anti-social or disorderly behaviour.
15. The licence holder must ensure that the area covered by the licence is monitored regularly by staff to ensure that the conditions above are being adhered to.
16. If the premises does not hold a premises licence under the Licensing Act 2003 which authorises the sale of alcohol, the licence holder must not allow the sale or consumption of alcohol within the licensed area.
17. Any sales of alcohol within the licensed area must be authorised under the Licensing Act 2003.
18. A copy of the licence must be kept on the premises at all times and be available for inspection by a police officer or authorised officer of the local authority.

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## ANNEX C – STATUTORY CONDITIONS FOR PAVEMENT LICENCES

1. Anything done by the licence holder pursuant to the licence, or any activity of other persons which is enabled by the licence, must not have an effect specified in section 3(6). These effects are:
  - (a) preventing traffic, other than vehicular traffic, from—
    - (i) entering the relevant highway at a place where such traffic could otherwise enter it (ignoring any pedestrian planning order or traffic order made in relation to the highway),
    - (ii) passing along the relevant highway, or
    - (iii) having normal access to premises adjoining the relevant highway,
  - (b) preventing any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order,
  - (c) preventing statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or
  - (d) preventing the operator of an electronic communications code network having access to any electronic communications apparatus kept installed for the purposes of that network under, in, on or over the highway.
2. Where the furniture to be put on the relevant highway consists of seating for use by persons for the purpose of consuming food or drink, the licence-holder must make reasonable provision for seating where smoking is not permitted.

## ANNEX D – TABLE OF DELEGATED FUNCTIONS

	Licensing Committee	Licensing Sub-Committee	Head of Regulatory Services
Approval and revision of Policy on Pavement Licensing	X		
Determination of application for grant of a pavement licence (including any specific conditions)			X
Determination of application for renewal of a pavement licence (including any specific conditions)			X
Decision to revoke a pavement licence		X	
Decision to serve notice on the licence holder under section 6 of the Business & Planning Act 2020			X
Decision to amend a licence with the consent of the licence holder under section 6(4) of the Business & Planning Act 2020			X
Decision to serve notice on a person under section 7A of the Business and Planning Act 2020			X

**MANDATORY SAFEGUARDING AWARENESS TRAINING FOR LICENSED HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS**

Relevant Portfolio Holder	Councillor Taylor
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**

- 1.1 This report highlights a recent review of the Council’s current training requirements for those that are licensed to drive hackney carriage and / or private hire vehicles.
- 1.2 Members are asked to direct officers to undertake a consultation with relevant stakeholders and the public on whether to introduce a requirement that all such licence holders have to undertake mandatory safeguarding awareness training when renewing their licences in the future.

**2. RECOMMENDATIONS**

- 2.1 **Members are asked to RESOLVE;**

**To direct officers to undertake a consultation with relevant stakeholders and the public on whether to introduce a requirement that takes effect from 1 April 2025, that all those who hold a licence issued by the Council authorising them to drive hackney carriage and / or private hire vehicles have to undertake mandatory safeguarding awareness training before renewing their licences.**

**3. KEY ISSUES**

**Financial Implications**

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

- 3.2 The costs of the safeguarding awareness training itself will need to be met by the licence holder. Officers are working closely with the training provider to keep costs to a minimum and to ensure that the amount charged is only as much as is required to achieve cost recovery. It is anticipated that the cost of the training per licence holder will be in the region of £20.

**Legal Implications**

- 3.3 The Statutory Taxi and Private Hire Standards have been published by the Department for Transport under the powers set out in section 177 of the Policing and Crime Act 2017.
- 3.4 Consultation on the proposals referred to in this report to amend Council's policy will be undertaken. It is proposed that the consultation will take place with licence holders, relevant stakeholders, and the general public over a 12-week period.
- 3.5 Appropriate consultation on any proposals to amend the Council's policies minimises the risk of legal challenge if the proposals are subsequently implemented.
- 3.6 The Department for Transport "Taxi and Private Hire Vehicle Licensing: Best Practice guidance" further states:

*"It is good practice for local authorities to consult about any significant proposed changes in licensing rules. Such consultation should include not only the taxi and PHV trades but also groups likely to be the trades' customers. Examples are groups representing disabled people, or Chambers of Commerce, organisations with a wider transport interest (eg the Campaign for Better Transport and other transport providers), women's' groups or local traders"*

**Service / Operational Implications**

- 3.7 In 2021 a review of all the Council's hackney carriage and private hire licensing policies was undertaken in response to the publication by the Department for Transport of guidance under section 177 of the Policing and Crime Act 2017 entitled "Statutory Taxi & Private Hire Standards." This work resulted in the production of a new draft hackney carriage and private hire licensing policy, which the Council implemented in September 2022.

- 3.8 This legislation was primarily prompted by the Jay and Casey reports on child sexual abuse and exploitation (CSAE) in Rotherham. Both reports highlighted examples of taxi/private hire vehicle drivers being directly linked to children that were abused, including instances when children were picked up from schools, children's homes or from family homes and abused or sexually exploited.
- 3.9 As part of the changes implemented in September 2022 the Council introduced a 'Competency Certificate' which all 'new' drivers are required to undertake. This certificate comprises of training on safeguarding, disability, equality, and many other aspects of training deemed necessary in order to apply for a new licence.
- 3.10 Anyone licensed prior to this date and who continues to apply to renew their licence are only asked to undertake safeguarding training on a voluntary basis. This has in effect created an uneven playing field.
- 3.11 Addressing the issues of child sexual exploitation and protection of the vulnerable remains a priority and a matter of great importance for the community and the Council. In respect of child sexual exploitation (CSE), for example, appropriately trained licensed drivers can assist in identification of incidents and persons of concern.
- 3.12 Safeguarding is the process of protecting children and adults at risk from harm, preventing impairment to their health and development, which includes keeping them safe from neglect, and physical, emotional, and sexual abuse. However, currently the Council now has licensed drivers with different levels of knowledge in these areas of importance.
- 3.13 The Council has the responsibility of licensing both the hackney carriage and private hire drivers to protect the public. The procedures that exist, and the process for obtaining a licence, are therefore in place to ensure each applicant is 'fit and proper' to hold a licence.
- 3.14 The safeguarding of children, young people and adults at risk is vital and the Council want to strengthen safeguarding practice and raise awareness and standards within taxi licensing. License holders are the critical 'eyes and ears' of the community and often encounter people who may be vulnerable.
- 3.15 In 2018 Licensing officers worked with partners across Worcestershire and offered a programme of child exploitation training (CSE) for all taxi drivers free of charge but on a voluntary basis. The take up of this training across the County was around 75%.

- 3.16 Research by officers has found that many neighbouring authorities and local authorities across the country used the implementation of the statutory standards as an opportunity to implement mandatory safeguarding training for their licence holders.
- 3.17 The Council did not do this at the time as intelligence data (including that from key partner agencies) did not indicate the presence of a live or emerging issue. Although this remains the case, the council recognises the role and responsibility that taxi and private hire drivers have in the economy and community, and it is important that the council proactively does all that it can to ensure drivers are aware of their safeguarding responsibilities.
- 3.18 As part of the consultation process for the introduction of a competency certificate in 2021, the feedback responses from stakeholders were favourable for new driver training to be implemented and officers would hope this would still remain the case today.
- 3.19 Feedback from drivers that have undertaken the competency certificate have been overall positive and pass rates have remained high with the number of people having to re-set the training being limited. Most drivers have taken away knowledge and guidance that they otherwise would not have known without undertaking the training.
- 3.20 Officers believe that the safeguarding module of the current training program for new driver should be rolled out to all drivers including existing licensed drivers that have not undertaken the competency certificate.
- 3.21 The proposal that officers believe would cause the least disruption to drivers and be the most efficient way to implement is set out in a draft revised extract from the Council's current Hackney Carriage and Private Hire Licensing Policy, which can be seen at **Appendix 1**.
- 3.22 Paragraph 2.9.6 has been inserted into the existing policy document under the 'specified requirements for existing licence holder renewals' and reads:
- “With effect from 1st April 2025, each time a licence holder renews their licence they must undertake safeguarding training delivered by the Council's approved training provider prior to submitting their renewal application.”*
- 3.23 Consultation responses would come back to this Committee after the consultation exercise has taken place so that the responses can be considered by Members before any final decision is made in respect of the proposal.



- 3.24 In light of these timescales' officers are proposing the commencement date of the 1<sup>st</sup> April 2025 allowing relevant drivers enough lead in time to book and undertake training before that date.

**4. RISK MANAGEMENT**

- 4.1 There is a possible reputational risk to the Council, as the new hackney carriage and private hire licensing policy, introduced in September 2022, only introduced the Competency Certificate to new drivers. Although it was not intended to cause any issues the Council may want to mitigate any risk by ensuring all drivers are in some way exposed to safeguarding training to protect the travelling public.
- 4.2 When introducing new, or amending existing Council policy, it is recommended that public consultation is undertaken on that policy, to minimise any risk of legal challenge.

**5. APPENDICES**

Appendix 1 – Draft Revised Extract from Hackney Carriage and Private Hire Licensing Policy

**AUTHOR OF REPORT**

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Worcestershire Regulatory Services

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## 2.9.0 Application Requirements – Applicants Renewing a Licence

- 2.9.1 An applicant seeking to renew a licence to drive hackney carriage and/or private hire vehicles must:
- Continue to benefit from the right to work in the United Kingdom (UK)
  - Be deemed by the Council to remain a “fit and proper person” to hold a licence
- 2.9.2 Before a licence to drive hackney carriage and/or private hire vehicles can be renewed, the applicant must have submitted all of the following:
- Completed application form
  - A valid DVLA licence check code
  - Application fee
  - A recent passport sized photograph of themselves
- 2.9.3 In addition, any person who has lived outside of the UK for a period of three or more continuous months since their last licence was issued, must provide criminal records information or a “Certificate of Good Character” from each country outside the UK in which they have lived.
- 2.9.4 In addition any person renewing their licence for the first time after they reach the age of 45, 50, 55 or 60, must provide a copy of the Council’s prescribed medical fitness certificate, which has been completed by a registered medical practitioner with access to their medical records and history.
- 2.9.5 Once a licence holder reaches 65 years of age they will be required to provide a copy of the Council’s prescribed medical fitness certificate, which has been completed by a registered medical practitioner with access to their medical records and history.
- 2.9.6 **With effect from 1<sup>st</sup> April 2025 each time a licence holder renews their licence they must undertake safeguarding training delivered by the Council’s approved training provider prior to submitting their renewal application.**
- 2.9.7 If an application to renew a licence to drive hackney carriage and/or private hire vehicles is received more than 14 days after the previous licence has expired, the applicant will be treated as if they were applying for a licence to drive hackney carriage and/or private hire vehicles for the first occasion.
- 2.9.8 Licences to drive hackney carriage and / or private hire vehicles will normally be issued for a period of 3 years and will then expire. Licences of a shorter duration may be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case, or where required (e.g. when the licence holder’s leave to remain in the UK is time-limited).

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**RENEWAL OF LICENCES FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES THAT HAVE PREVIOUSLY BEEN WRITTEN OFF**

Relevant Portfolio Holder	Councillor Taylor
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**

- 1.1 Members of the Licensing Committee are asked to consider an issue that has arisen for the hackney carriage and private hire trade in Bromsgrove since the Council adopted a new Hackney Carriage and Private Hire Licensing Policy on 1<sup>st</sup> September 2022. Members are asked to direct officers to carry out a short, targeted consultation exercise with a view to resolving this issue by making some minor alterations to the wording contained in part of the policy.

**2. RECOMMENDATIONS**

- 2.1 **That the Licensing Committee RESOLVES to direct officers to carry out a short, targeted consultation exercise on amending the wording of paragraphs 3.3.11 and 3.4.11 of the Council’s Hackney Carriage and Private Hire Licensing Policy to the wording shown at Appendix 2.**

**3. KEY ISSUES**

**Financial Implications**

- 3.1 The costs incurred in carrying out the consultation exercise will be met from existing budgets held by Worcestershire Regulatory Services.

#### Legal Implications

- 3.2 In accordance with section 37 of the Town Police Clauses Act 1847, a district council may licence to ply for hire within the area of the district council, such number of hackney carriages or carriages of any kind or description adapted to the carriage of persons as they think fit.
- 3.3 Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 states that a district council may on the receipt of an application from the proprietor of any vehicle for the grant in respect of such vehicle of a licence to use the vehicle as a private hire vehicle, grant in respect thereof a vehicle licence:

Provided that a district council shall not grant such a licence unless they are satisfied—

- (a) That the vehicle is—
- (i) suitable in type, size and design for use as a private hire vehicle;
  - (ii) not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;
  - (iii) in a suitable mechanical condition;
  - (iv) safe; and
  - (v) comfortable;

#### Service / Operational Implications

- 3.4 The Council is responsible for the issuing of licences to authorise people to use vehicles as hackney carriages or private hire vehicles.
- 3.5 The Council implemented a new Hackney Carriage and Private Hire Vehicle Policy with effect from 1<sup>st</sup> September 2022, which was later amended with effect from 1<sup>st</sup> April 2023. The policy contains requirements in respect of the licensing of vehicles to be used as a hackney carriage or private hire vehicle. The relevant part of the current Policy can be seen at **Appendix 1**.

- 3.6 One of the changes that the new policy introduced was a stipulation that the Council would no longer licence any vehicle to be used as either a hackney carriage or private hire vehicle if it has been graded as a Category A, Category B or Category C or Category S write-off for insurance purposes. Paragraphs 3.1.10 and 3.2.10 of the policy set this out in respect of those vehicles being licensed by the Council to be used as a hackney carriage or private hire vehicle for the first occasion.
- 3.7 The new policy goes on to state that the Council will also not renew any licence to use a vehicle as a hackney carriage if the vehicle has been graded as a Category A, Category B or Category C or Category S write-off for insurance purposes. Paragraphs 3.3.11 and 3.4.11 of the policy are the relevant paragraphs in this respect.
- 3.8 The wording currently used in paragraphs 3.3.11 and 3.4.11 of the policy means that vehicles that were licensed before the new policy took effect and that had been previously graded as a Category A, Category B or Category C or Category S write-off no longer comply with the Council's policy, even though vehicle had been licensed for a number of years without any issues arising.
- 3.9 As the vehicles no longer comply with the Council's policy, officers have been unable to determine these renewal applications under delegated powers and have had to refer the applications to Licensing Sub-Committees to be determined.
- 3.10 Officers believe that when approving the new Hackney Carriage and Private Hire Vehicle Policy, Members had in fact intended for there to be a gradual phasing out of the licensing of vehicles that have been graded as a Category A, Category B or Category C or Category S write-off rather than intending to stop licensing all such vehicles when the relevant licences were next due to be renewed.
- 3.11 Officers believe that this intention could be achieved by making minor amendments to the wording contained in paragraphs 3.3.11 and 3.4.11 of the policy. Some proposed alternative wording has been drafted and can be seen at **Appendix 2**.
- 3.12 Officers believe this amended wording would mean that anyone that had licensed a vehicle prior to the implementation of the new policy would be able to continue using the vehicle as a hackney carriage or private hire vehicle for as long as it complied with the Council's other requirements, even if the vehicle was graded as a Category A, Category B or Category C or Category S write-off when it first became licensed.

3.13 Officers are therefore recommending that a short and targeted consultation exercise take place on amending the wording contained in Paragraphs 3.3.11 and 3.4.11 of the Council's Hackney Carriage and Private Hire Vehicle Policy to that shown at **Appendix 2**.

3.14 The responses received during the consultation exercise would then be reported back to the Licensing Committee before a decision is taken regarding approving a revised version of the Hackney Carriage and Private Hire Vehicle Policy.

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

4.1 Carrying out consultation with relevant stakeholders when reviewing a policy minimises the risk of legal challenge.

#### **5. APPENDICES**

5.1 Appendix 1 – Hackney Carriage and Private Hire Licensing Policy (extract)

Appendix 2 - Proposed alternative wording for paragraphs 3.3.11 and 3.4.11 of the policy

#### **AUTHOR OF REPORT**

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## 3.0 Licences to Use a Vehicles as a Hackney Carriage or Private Hire Vehicle

### 3.1.0 **Obtaining a licence to use a vehicle as a Hackney Carriage for the first occasion - Application Requirements**

#### General vehicle requirements

- 3.1.1 An applicant for a licence to use a vehicle as a hackney carriage must ensure the vehicle is a fully enclosed four wheel passenger vehicle with a M.1 or M.2 European Community Whole Vehicle Type Approval (ECWVTA) or a UK Low Volume Approval, or an Individual Vehicle Approval (IVA) and which meets the following criteria meets the following criteria:
- manufactured from new as a right hand drive vehicle;
  - constructed or adapted to seat in comfort at least 4 passengers and not more than 8 passengers;
  - has sufficient doors of sufficient size to allow safe ingress and egress of passengers;
  - where only one passenger door is fitted, that door is on the near-side (kerbside) of the vehicle;
  - has no side facing seats;
  - each provided seat has a minimum width of 407 mm per passenger measured at the narrowest part of the seat and each passenger seat is fitted with a seat belt
  - a distance of 178mm from the back of the seat in front (when in it's rear-most position) to the front of the seat behind.
  - each provided seat is accessible without the need to remove or fold, or tip up any other seat
  - the boot or luggage compartment is of sufficient size to carry a reasonable amount of luggage relative to the seating capacity;
  - the boot or luggage compartment is separated from the passenger compartment by a suitable barrier
  - Vehicles that have been subject to conversion must have appropriate SVA / IVA type approval from VOSA.
  - All window glass must be to the manufacturer's standard specification and must be presented in an unmodified state. Vehicles must not be fitted with any films, foils, privacy glass (entirely black or reflective glass), or any other aftermarket tinting.

#### Vehicle age requirements

- 3.1.2 Where the vehicle is powered fully by electricity or hydrogen fuel cell and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 15 years of age.
- 3.1.3 Where the vehicle is powered fully by electricity or hydrogen fuel cell and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle is not subject to any age limit.
- 3.1.4 Where the vehicle is an ultra-low emission vehicle (ULEV) and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 12 years of age.
- 3.1.5 Where the vehicle is an ultra-low emission vehicle (ULEV) and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 15 years of age.

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- 3.1.6 For the purposes of paragraphs 3.1.4 and 3.1.5 of this policy, an ultra-low emission vehicle (ULEV) is one having less than 75 grams of CO<sub>2</sub> per kilometre (g/km) from the tail pipe.
- 3.1.7 Where the vehicle is not powered fully by electricity or hydrogen fuel cell, is not an ultra-low emission vehicle (ULEV) and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 9 years of age.
- 3.1.8 Where the vehicle is not powered fully by electricity or hydrogen fuel cell, is not an ultra-low emission vehicle (ULEV) and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 12 years of age.
- 3.1.9 The above dates will be calculated based on the date of first registration shown on the vehicle registration certificate (VC5).

## Vehicles written off for insurance purposes

- 3.1.10 The Council will not licence any vehicle to be used as a hackney carriage if it has been graded as a Category A, Category B or Category C or Category S write-off for insurance purposes.

## Vehicles licensed by other local authorities

- 3.1.11 The Council will not issue a licence in respect of any vehicle that is already licensed another local authority to be used as either a hackney carriage or private hire vehicle.

## Documentation required to be submitted

- 3.1.12 Before a licence to use a vehicle as a hackney carriage can be issued, the applicant must have submitted all of the following:
- Completed application form
  - A current MOT certificate
  - Valid insurance showing the vehicle is insured for use for hire and reward for public hire or in accordance with a hackney carriage licence.
  - The V5C certificate for the vehicle or other equivalent proof of ownership
  - A certificate confirming the vehicle has been found fit for use at the Council's appointed testing station for hackney carriage and private hire vehicles.
  - The appropriate application fee
  - A basic criminal record disclosure certificate in respect of all relevant individuals.
- 3.1.13 "Relevant individuals" means any person named as a proprietor of the vehicle on the application and in the case of an application made by a limited company, each director of that company. The requirement to provide a basis criminal record disclosure certificate will be waived in respect of any person licensed by the Council to drive hackney carriage and/or private hire vehicles.

## 3.2.0 Obtaining a licence to use a vehicle as a private hire vehicle for the first occasion - Application Requirements

### General requirements

3.2.1 An applicant for a licence to use a vehicle as a private hire vehicle must ensure the vehicle is a fully enclosed four wheel passenger vehicle with a M.1 or M.2 European Community Whole Vehicle Type Approval (ECWVTA) or a UK Low Volume Approval, or an Individual Vehicle Approval (IVA) and which meets the following criteria meets the following criteria:

- manufactured from new as a right hand drive vehicle;
- constructed or adapted to seat in comfort at least 4 passengers and not more than 8 passengers;
- has sufficient doors of sufficient size to allow safe ingress and egress of passengers;
- where only one passenger door is fitted, that door is on the near-side (kerbside) of the vehicle;
- has no side facing seats;
- each provided seat has a minimum width of 407 mm per passenger measured at the narrowest part of the seat and each passenger seat is fitted with a seat belt
- a distance of 178mm from the back of the seat in front (when in it's rear-most position) to the front of the seat behind.
- each provided seat is accessible without the need to remove or fold, or tip up any other seat
- the boot or luggage compartment is of sufficient size to carry a reasonable amount of luggage relative to the seating capacity;
- the boot or luggage compartment is separated from the passenger compartment by a suitable barrier
- Vehicles that have been subject to conversion must have appropriate SVA / IVA type approval from VOSA.
- All window glass must be to the manufacturer's standard specification and must be presented in an unmodified state. Vehicles must not be fitted with any films, foils, privacy glass (entirely black or reflective glass), or any other aftermarket tinting.

### Vehicle age requirements

3.2.2 Where the vehicle is powered fully by electricity or hydrogen fuel cell and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 15 years of age.

3.2.3 Where the vehicle is powered fully by electricity or hydrogen fuel cell and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle is not subject to any age limit.

3.2.4 Where the vehicle is an ultra-low emission vehicle (ULEV) and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 12 years of age.

3.2.5 Where the vehicle is an ultra-low emission vehicle (ULEV) and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 15 years of age.

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- 3.2.6 For the purposes of paragraphs 3.2.4 and 3.2.5 of this policy, an ultra-low emission vehicle (ULEV) is one having less than 75 grams of CO<sub>2</sub> per kilometre (g/km) from the tail pipe.
- 3.2.7 Where the vehicle is not powered fully by electricity or hydrogen fuel cell, is not an ultra-low emission vehicle (ULEV) and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 9 years of age.
- 3.2.8 Where the vehicle is not powered fully by electricity or hydrogen fuel cell, is not an ultra-low emission vehicle (ULEV) and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 12 years of age.
- 3.2.9 The age of the vehicle will be calculated based on the date of first registration shown on the vehicle registration certificate (VC5).

## Vehicles written off for insurance purposes

- 3.2.10 The Council will not licence any vehicle to be used as a private hire vehicle if it has been graded as a Category A, Category B or Category C or Category S write-off for insurance purposes.

## Vehicles licensed by other local authorities

- 3.2.11 The Council will not issue a licence in respect of any vehicle that is already licensed another local authority to be used as either a hackney carriage or private hire vehicle.

## Documentation required to be submitted

- 3.2.12 Before a licence to use a vehicle as a private hire vehicle can be issued, the applicant must have submitted all of the following:
- Completed application form
  - A current MOT certificate
  - Valid insurance showing the vehicle is insured for use for hire and reward for private hire hire or in accordance with a private hire licence.
  - The V5C certificate for the vehicle or other equivalent proof of ownership
  - A certificate confirming the vehicle has been found fit for use at the Council's appointed testing station for hackney carriage and private hire vehicles.
  - The appropriate application fee
  - A basic criminal record disclosure certificate in respect of all relevant individuals.
- 3.2.13 "Relevant individuals" means any person named as a proprietor of the vehicle on the application and in the case of an application made by a limited company, each director of that company. The requirement to provide a basis criminal record disclosure certificate will be waived in respect of any person licensed by the Council to drive hackney carriage and/or private hire vehicles.

## 3.3.0 Renewing a licence to use a vehicle as a Hackney Carriage – Application Requirements

3.3.1 An applicant seeking to renew a licence to use a vehicle as a hackney carriage must ensure the vehicle continues to meet the Council's requirements set out at paragraph 3.1.1 of this policy.

### Requirements as to the age of the vehicle upon renewal of licence

3.3.2 A licence to use a vehicle as a hackney carriage will not be renewed if the vehicle concerned does not meet the following requirements at the time that the existing licence is due to expire:

3.3.3 Where the vehicle is powered fully by electricity or hydrogen fuel cell and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 18 years of age.

3.3.4 Where the vehicle is powered fully by electricity or hydrogen fuel cell and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle is not subject to any age limit.

3.3.5 Where the vehicle is an ultra-low emission vehicle (ULEV) and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 15 years of age.

3.3.6 Where the vehicle is an ultra-low emission vehicle (ULEV) and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 18 years of age.

3.3.7 For the purposes of paragraphs 3.3.5 and 3.3.6 of this policy, an ultra-low emission vehicle (ULEV) is one having less than 75 grams of CO<sub>2</sub> per kilometre (g/km) from the tail pipe.

3.3.8 Where the vehicle is not powered fully by electricity or hydrogen fuel cell, is not an ultra-low emission vehicle (ULEV) and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 12 years of age.

3.3.9 Where the vehicle is not powered fully by electricity or hydrogen fuel cell, is not an ultra-low emission vehicle (ULEV) and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 15 years of age.

3.3.10 The age of the vehicle will be calculated based on the date of first registration shown on the vehicle registration certificate (VC5).

### Vehicles written off for insurance purposes

3.3.11 The Council will not renew any licence to use a vehicle as a hackney carriage if the vehicle has been graded as a Category A, Category B or Category C or Category S write-off for insurance purposes.

### Vehicles licensed by other local authorities

3.3.12 The Council will not issue a licence in respect of any vehicle that is already licensed another local authority to be used as either a hackney carriage or private hire vehicle.

Documentation to be submitted:

- 3.3.13 Before a licence to use a vehicle as a hackney carriage can be renewed, the applicant must have submitted all of the following:
- Completed application form
  - A current MOT certificate
  - Valid insurance showing the vehicle is insured for use for hire and reward for public hire or in accordance with a hackney carriage licence.
  - The V5C certificate for the vehicle.
  - A certificate from the Council's appointed testing station for hackney carriage and private hire vehicles confirming the vehicle remains fit for use.
  - The appropriate application fee
  - A basic criminal record disclosure certificate in respect of all relevant individuals.
- 3.3.14 "Relevant individuals" means any person named as a proprietor of the vehicle on the application and in the case of an application made by a limited company, each director of that company. The requirement to provide a basis criminal record disclosure certificate will be waived in respect of any person licensed by the Council to drive hackney carriage and/or private hire vehicles.
- 3.3.15 If an application to renew a licence to use a vehicle as a hackney carriage is received more than 14 days after the previous licence has expired, the application will be treated as if it were an application to licence the vehicle to be used as a hackney carriage for the first occasion and will have to meet the stated criteria for such vehicles.

## **3.4.0 Renewing a licence to use a vehicle as a Private Hire Vehicle Application Requirements**

3.4.1 An applicant seeking to renew a licence to use a vehicle as a private hire vehicle must ensure the vehicle continues to meet the Council's requirements set out at paragraph 3.2.1 of this policy.

### Requirements as to the age of the vehicle upon renewal of licence

3.4.2 A licence to use a vehicle as a private hire vehicle will not be renewed if the vehicle concerned does not meet the following requirements at the time that the existing licence is due to expire:

3.4.3 Where the vehicle is powered fully by electricity or hydrogen fuel cell and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 18 years of age.

3.4.4 Where the vehicle is powered fully by electricity or hydrogen fuel cell and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle is not subject to any age limit.

3.4.5 Where the vehicle is an ultra-low emission vehicle (ULEV) and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 15 years of age.

3.4.6 Where the vehicle is an ultra-low emission vehicle (ULEV) and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 18 years of age.

3.4.7 For the purposes of paragraphs 3.4.5 and 3.4.6 of this policy, an ultra-low emission vehicle (ULEV) is one having less than 75 grams of CO<sub>2</sub> per kilometre (g/km) from the tail pipe.

3.4.8 Where the vehicle is not powered fully by electricity or hydrogen fuel cell or an ultra-low emission vehicle (ULEV) and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 12 years of age.

3.4.9 Where the vehicle is not powered fully by electricity or hydrogen fuel cell or an ultra-low emission vehicle (ULEV) and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 15 years of age.

3.4.10 The above dates will be calculated based on the date of first registration shown on the vehicle registration certificate (VC5).

### Vehicles written off for insurance purposes

3.4.11 The Council will not renew any licence to use a vehicle as a private hire vehicle if the vehicle has been graded as a Category A, Category B or Category C or Category S write-off for insurance purposes.

### Vehicles licensed by other local authorities

3.4.12 The Council will not issue a licence in respect of any vehicle that is already licensed another local authority to be used as either a hackney carriage or private hire vehicle.

Documentation to be submitted:

- 3.4.13 Before a licence to use a vehicle as a private hire vehicle can be renewed, the applicant must have submitted all of the following:
- Completed application form
  - A current MOT certificate
  - Valid insurance showing the vehicle is insured for use for hire and reward for private hire or in accordance with a private hire licence.
  - The V5C certificate for the vehicle.
  - A certificate from the Council's appointed testing station for hackney carriage and private hire vehicles confirming the vehicle remains fit for use.
  - The appropriate application fee
  - A basic criminal record disclosure certificate in respect of all relevant individuals.
- 3.4.14 "Relevant individuals" means any person named as a proprietor of the vehicle on the application and in the case of an application made by a limited company, each director of that company. The requirement to provide a basis criminal record disclosure certificate will be waived in respect of any person licensed by the Council to drive hackney carriage and/or private hire vehicles.
- 3.4.15 If an application to renew a licence to use a vehicle as a private hire vehicle is received more than 14 days after the previous licence has expired, the application will be treated as if it were an application to licence the vehicle to be used as a private hire vehicle for the first occasion and will have to meet the stated criteria for such vehicles.



## **3.5.0 Obtaining a licence to use a vehicle as a Hackney Carriage on a temporary basis Application Requirements**

3.5.1 This section applies where an application is being made to licence a vehicle for a short period of time as a temporary replacement for a vehicle that is licensed to be used as a hackney carriage but that needs to be replaced for a short period of time as it has become temporarily unfit for use – for example due to accident damage.

### Vehicle criteria

3.5.2 An applicant for a licence to use a vehicle as a hackney carriage on a temporary basis must ensure the vehicle meets the criteria set out in paragraphs 3.1.1 to 3.1.9 of this policy.

3.5.3 Where the vehicle that is being temporarily replaced is a vehicle that is capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the temporary replacement vehicle must also be capable of doing so.

### Accident reporting

3.5.4 If the vehicle being temporarily replaced has been involved in an accident, the proprietor of that vehicle must have reported that accident to the Council in writing before an application for a temporary replacement vehicle can be accepted.

### Vehicles written off for insurance purposes

3.5.5 The Council will not licence any vehicle to be used as a hackney carriage if it has been graded as a Category A, Category B or Category C or Category S write-off.

### Vehicles licensed by other local authorities

3.5.6 The Council will not issue a licence in respect of any vehicle that is already licensed another local authority to be used as either a hackney carriage or private hire vehicle.

### Documentation to be submitted:

3.5.7 Before a licence to use a vehicle as a hackney carriage can be issued, the applicant must have submitted all of the following:

- Completed application form
- A current MOT certificate
- Valid insurance showing the vehicle is insured for use for hire and reward for public hire or in accordance with a hackney carriage licence.
- The V5C certificate for the vehicle or other equivalent proof of ownership
- A certificate confirming the vehicle has been found fit for use at the Council's appointed testing station for hackney carriage and private hire vehicles.
- The appropriate application fee

### Duration of licence

3.5.8 A licence issued in accordance with this section will be issued for a period of no more than four months and will then expire.

## **3.6.0 Obtaining a licence to use a vehicle as a Private Hire Vehicle on a temporary basis Application Requirements**

3.6.1 This section applies where an application is being made to licence a vehicle for a short period of time as a temporary replacement for a vehicle that is licensed to be used as a private hire vehicle but that needs to be replaced for a short period of time as it has become temporarily unfit for use – for example due to accident damage.

### Vehicle criteria

3.6.2 An applicant for a licence to use a vehicle as a private hire vehicle on a temporary basis must ensure the vehicle meets the following criteria set out in paragraphs 3.2.1 to 3.2.9 above.

3.6.3 Where the vehicle that is being temporarily replaced is a vehicle that is capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the temporary replacement vehicle must also be capable of doing so.

### Accident reporting

3.6.4 If the vehicle being temporarily replaced has been involved in an accident, the proprietor of that vehicle must have reported that accident to the Council in writing before an application for a temporary replacement vehicle can be accepted.

### Vehicles written off for insurance purposes

3.6.5 The Council will not licence any vehicle to be used as a hackney carriage if it has been graded as a Category A, Category B or Category C or Category S write-off.

### Vehicles licensed by other local authorities

3.6.6 The Council will not issue a licence in respect of any vehicle that is already licensed another local authority to be used as either a hackney carriage or private hire vehicle.

### Documentation to be submitted:

3.6.7 Before a licence to use a vehicle as a private hire vehicle can be issued, the applicant must have submitted all of the following:

- Completed application form
- A current MOT certificate
- Valid insurance showing the vehicle is insured for use for hire and reward for private hire or in accordance with a private hire licence.
- The V5C certificate for the vehicle or other equivalent proof of ownership
- A certificate confirming the vehicle has been found fit for use at the Council's appointed testing station for hackney carriage and private hire vehicles.
- The appropriate application fee

### Duration of licence

3.6.8 A licence issued in accordance with this section will be issued for a period of no more than four months and will then expire.

## **3.7.0 Transferring a licence to use a vehicle as a Hackney Carriage (Change of Proprietor) Application Requirements**

### Documentation to be submitted:

3.7.1 An applicant for the transfer of a licence to use a vehicle as a hackney carriage must submit:

- Completed application form
- Valid insurance showing the vehicle is insured for use for hire and reward for public hire or in accordance with a hackney carriage licence.
- Written confirmation from the existing licence holder that they have sold the vehicle concerned to the applicant for the transfer.
- The V5C certificate for the vehicle or other equivalent proof of ownership
- The appropriate application fee
- A basic criminal record disclosure certificate in respect of all relevant individuals.

3.7.2 “Relevant individuals” means any person named as a proprietor of the vehicle on the application and in the case of an application made by a limited company, each director of that company. The requirement to provide a basis criminal record disclosure certificate will be waived in respect of any person licensed by the Council to drive hackney carriage and/or private hire vehicles.

3.7.3 Where a licence is transferred to a new proprietor, the licence will expire on the same date as it would have if the licence had not been transferred.

## **3.8.0 Transferring a licence to use a vehicle as a Private Hire Vehicle (Change of Proprietor) Application Requirements**

### Documentation to be submitted:

- 3.8.1 An applicant for the transfer of a licence to use a vehicle as a private hire vehicle must submit:
- Completed application form
  - Valid insurance showing the vehicle is insured for use for hire and reward for private hire or in accordance with a private hire licence.
  - Written confirmation from the existing licence holder that they have sold the vehicle concerned to the applicant for the transfer.
  - The V5C certificate for the vehicle or other equivalent proof of ownership
  - The appropriate application fee
  - A basic criminal record disclosure certificate in respect of all relevant individuals.
- 3.8.2 “Relevant individuals” means any person named as a proprietor of the vehicle on the application and in the case of an application made by a limited company, each director of that company. The requirement to provide a basis criminal record disclosure certificate will be waived in respect of any person licensed by the Council to drive hackney carriage and/or private hire vehicles.
- 3.8.3 Where a licence is transferred to a new proprietor, the licence will expire on the same date as it would have if the licence had not been transferred.

## **3.9.0 Changing the vehicle that you are licensed to use as a hackney carriage**

- 3.9.1 If a person who holds a licence to use a vehicle as a hackney carriage wishes to change the vehicle that they are licensed to use for this purpose, they must submit an application in accordance with the requirements for submitting an application to licence a vehicle as a hackney carriage for the first occasion.

## **3.10.0 Changing the vehicle that you are licensed to use as a private hire vehicle**

- 3.10.1 If a person who holds a licence to use a vehicle as a private hire vehicle wishes to change the vehicle that they are licensed to use for this purpose, they must submit an application in accordance with the requirements for submitting an application to licence a vehicle as a private hire vehicle for the first occasion.

## **3.11.0 Consideration of applications to licence vehicles that do not meet the required criteria**

- 3.11.1 This section applies where an application is received for the grant or renewal of a licence to use a vehicle as a hackney carriage or a private hire vehicle and the vehicle concerned does not meet the required criteria detailed in this policy.
- 3.11.2 The application will be determined at a hearing of the Council's Licensing Sub-Committee.
- 3.11.3 In determining the application, the starting point will be that the application should be refused unless the vehicle is of such an exceptional standard as to justify a departure from this policy.
- 3.11.4 In considering whether the vehicle is of an exceptional standard, regard will be had to:
- The age of the vehicle
  - The mileage of the vehicle
  - The make, model and specifications of the vehicle
  - The emissions standards met by the vehicle
  - The MOT and service history of the vehicle
  - The interior and exterior condition of the vehicle
  - Whether the vehicle has any exceptional features or performs or is designed for any specific function or use that the majority of other vehicles cannot perform.
- 3.11.5 The financial and other personal circumstances of the applicant for the grant or renewal of a licence will not be taken into account when reaching a decision.
- 3.11.6 The primary and overriding consideration will be whether the vehicle is safe and fit for use.

## **3.12.0 The Fit and Proper Person Test – Hackney Carriage and Private Hire Vehicle Proprietors**

- 3.12.1 As well as the suitability of the vehicle, in determining whether to grant a licence to use a vehicle as a hackney carriage / private hire vehicle, those making the decision on behalf of the Council will consider whether the applicant is a fit and proper person to be issued such a licence.
- 3.12.2 A person who has already been deemed fit and proper by the Council to hold a licence to drive hackney carriage and/or private hire vehicles will automatically be considered a fit and proper person to hold a licence to use a vehicle as a hackney carriage / private hire vehicle.
- 3.12.3 In considering whether an applicant or licence holder is fit and proper, those making the decision on behalf of the Council will ask themselves the following question:
- 3.12.4 *“Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be satisfied that they would not allow it to be used for criminal or other unacceptable purposes, and be confident that they would maintain it to an acceptable standard throughout the period of the licence?”*
- 3.12.5 If, on the balance of probabilities, the answer to the question is ‘no’, the individual should not hold a licence. An applicant or licence holder will not be given “the benefit of the doubt”. If those making the decision are only “50/50” as to whether the applicant or licence holder is fit and proper, they will not be licensed.
- 3.12.6 When considering this those making the decision on behalf of the Council will consider:
- whether an applicant has met the Council’s application requirements
  - Any information revealed by basic disclosure relating to the applicant
  - Any information revealed under Common Law Police Disclosure provisions
  - Any information revealed during checks on NR3
  - Any information regarding complaints received about an applicant or licence holder
- 3.12.7 In considering the information above, those making a decision on behalf of the Council will have regard to Council’s guidelines on the assessment of previous convictions which are shown at Annex A.
- 3.12.8 The financial and other personal circumstances of the applicant or licence holder will not be taken into account when reaching a decision.
- 3.12.9 In the case of an application from a company, the Council will apply the “fit and proper person” test to all directors of that company.
- 3.12.10 In the case of an application from a number of joint proprietors, the Council will apply the “fit and proper person” test to each proprietor identified in the application for the licence.

### Delegated Decisions

- 3.12.11 Where the applicant has met the Council’s application requirements and no information has been revealed by any of the checks set out above that brings into question whether the applicant is a fit and proper person, officers have delegated authority to grant applications and issue licences to applicants.



3.12.12 Authority is also delegated to officers to grant licences and issue licences to applicants whose DBS certificate reveals a single isolated conviction or caution that is more than five years older than any relevant rehabilitation period set out in the Council's guidelines on the assessment of previous convictions shown at Annex A.

3.12.13 For example, authority is delegated to officers to grant a licence where the applicant has an isolated conviction or caution for an offence of violence against the person, or connected with any offence of violence, once 15 years have elapsed since the completion of any sentence imposed.

#### Referral to Licensing Sub-Committee

3.12.14 An application cannot be dealt with by officers under delegated powers where:

- An applicant's basic disclosure certificate reveals more than one previous conviction or caution
- An applicant's basic disclosure certificate reveals an isolated conviction or caution that is less than five years older than any relevant rehabilitation period set out in the Council's guidelines on the assessment of previous convictions shown at Annex A.
- Information has been provided about an applicant under Common Law Police Disclosure provisions
- An applicant has previously had an application for a licence to drive hackney carriage or private hire vehicles refused
- An applicant has previously had a licence to drive hackney carriage or private hire vehicles suspended or revoked

3.12.15 Where an application cannot be determined by officers under delegated powers, the applicant may request that their application is determined by a Licensing Sub-Committee.

3.12.16 Notwithstanding the previous paragraph, each case will be considered on its merits and where there is any doubt about whether an applicant is a fit and proper person, then the application will be referred to a Licensing Sub-Committee for determination.

## **3.13.0 Licence Conditions**

- 3.13.1 All licences issued authorising a person to use a vehicle as a hackney carriage will be granted subject to the standard conditions shown at Annex C.
- 3.13.2 All licences issued authorising a person to use a vehicle as a private hire vehicle will be granted subject to the standard conditions shown at Annex D.
- 3.13.3 In addition to these standard conditions, individually tailored conditions may be attached to specific licences on a case by case basis where the circumstances justify this approach.

## **3.14.0 CCTV cameras in hackney carriage and private hire vehicles**

3.14.1 The Council recognises that CCTV systems can act as an additional safeguard, providing protection, confidence and reassurance to the public when they are travelling in a hackney carriage or private hire vehicle as well as to drivers, who can also be victims of violence and abuse.

3.14.2 The Council therefore will allow the proprietor of any vehicle that it has authorised to be used as a hackney carriage or private hire vehicle to install CCTV cameras in their vehicle subject to the following requirements:

- No installation of a CCTV system shall take place within a licensed vehicle unless the proprietor of the vehicle has notified the Council in advance.
- All CCTV systems which are installed into licensed vehicles must be compliant with the requirements of the Data Protection Act 2018. The system must also be compliant with the Information Commissioner's requirements in respect of registering the system and the capturing, storing, retaining and using any recorded images.

## **3.15.0 Inspection of hackney carriage and private hire vehicles**

- 3.15.1 In order to ensure the safety of the public, the Council will do all it can to ensure that the vehicles it licences to be used as hackney carriages or private hire vehicles are safe and fit for use.

### Programmed Inspections of Licensed Vehicles

- 3.15.2 A licence to use a vehicle as a hackney carriage or private hire vehicle will not be granted or renewed unless the vehicle has been inspected and found to be safe and fit for use in accordance with the Council's criteria for licensing vehicles for such use.
- 3.15.3 Where a vehicle is more than seven years of age on the date the licence was issued, it must also be presented for further inspection within a four-week period beginning on the date six months after the licence issue date.
- 3.15.4 The age of the vehicle will be calculated based on the date of first registration shown on the vehicle registration certificate (VC5).

### Other inspections of Licensed Vehicles

- 3.15.5 As well as these programmed inspections of licensed vehicles, the Council has the power at all reasonable times to inspect and test any hackney carriage or private hire vehicle it has licensed to ascertain its fitness for use.
- 3.15.6 Therefore from time to time, the proprietor or driver of a licensed vehicle may be directed to present their vehicle for inspection. Failure to present the vehicle for inspection as directed may lead to formal action being taken against the relevant proprietor or driver.

## **3.16.0 Powers to suspend and revoke vehicle licences**

### Suspension of a licence on grounds of vehicle condition

- 3.16.1 The Local Government (Miscellaneous Provisions) Act 1976 provides authorised officers of the Council with two mechanisms for suspending the licence of a vehicle that is found to be unfit for use.
- 3.16.2 Section 68 of the Act provides a power to suspend the licence with immediate effect until such time as an authorised officer is satisfied the vehicle is fit for use again.
- 3.16.3 Section 60 of the Act provides a further power to suspend a licence for a vehicle, on any of the following grounds:—
- (a) that the hackney carriage or private hire vehicle is unfit for use as a hackney carriage or private hire vehicle;
  - (b) any offence under, or non-compliance with, the provisions of the Act of 1847 or of this Part of this Act by the operator or driver; or
  - (c) any other reasonable cause.
- 3.18.4 However, a decision to suspend a licence under section 60 does not take effect until after the period given for appealing against the decision has elapsed or, if an appeal is lodged, until the appeal has been determined by the relevant court.
- 3.16.5 Therefore, in order to ensure the safety of the travelling public, any suspension of a licence that needs to be undertaken due to the relevant vehicle being unfit for use, will normally be undertaken using the powers afforded by section 68.

### Revocation of a licence on grounds of vehicle condition

- 3.16.6 If a licence is suspended in accordance with section 68 of the Act and the vehicle is not deemed to be fit for use again within a period of two months, the Act states that the licence is deemed to have been revoked.
- 3.16.7 Section 60 of the Act provides a further power to revoke a licence for a vehicle, on any of the following grounds:—
- (a) that the hackney carriage or private hire vehicle is unfit for use as a hackney carriage or private hire vehicle;
  - (b) any offence under, or non-compliance with, the provisions of the Act of 1847 or of this Part of this Act by the operator or driver; or
  - (c) any other reasonable cause.
- 3.16.8 The Council revoke any licence issued authorising a vehicle to be used as a hackney carriage or private hire vehicle if that vehicle is graded as a Category A, Category B or Category C or Category S write-off.

## Applying for a licence to use a vehicle as a hackney carriage or private hire vehicle after a licence has been deemed to be revoked in accordance with section 68

- 3.16.9 This section applies where a licence to use a vehicle has been deemed to have been revoked by virtue of section 68 of the Local Government (Miscellaneous Provisions) Act 1976.
- 3.16.10 The proprietor may apply for a licence to use the same vehicle for the same purpose as it was previously licensed. The proprietor must provide all the relevant documents required when applying to licence a vehicle as a hackney carriage or private hire vehicle for the first occasion and the vehicle must meet the relevant criteria with the exception of having to be vehicle of a particular categorisation or age.
- 3.16.11 An application made in reliance on this section of the policy must be made within a period of 2 months from the date that the licence was deemed to have been revoked.

## Suspension and revocation of a licence on grounds of licence holder suitability

- 3.16.12 Where information comes to light that brings into question whether the holder of a licence remains a fit and proper person, their licence may be referred to a Licensing Sub-Committee for review.
- 3.16.13 Such information could include:
- Information revealed by DBS certificates or DBS update checks carried out in relation to the licence holder
  - Information revealed under Common Law Police Disclosure
  - Information revealed by checks undertaken on the licence holder's DVLA driving licence records
  - Information regarding immigration penalties paid by the licence holder
  - Information revealed during checks on NR3
  - Information regarding complaints received about a licence holder
  - Information received from the licence holder themselves
- 3.16.14 When conducting a review of a licence to use a vehicle as a hackney carriage or private hire vehicle, the Licensing Sub-Committee will treat each case on its merits and have regard to all of the evidence and information that they are provided and will then reach a decision as to whether they believe the licence holder remains a fit and proper person to hold a licence and which of the following steps (if any) needs to be taken:
- Issue a warning to the licence holder
  - To require the licence holder to undertake additional training / assessments
  - To suspend the licence
  - To revoke the licence
- 3.16.15 Any decision to suspend or revoke a licence under section 60 does not take effect until after the period given for appealing against the decision has elapsed or, if an appeal is lodged, until the appeal has been determined by the relevant court.

## **3.17.0 Position on Maintenance of a List of Designated Wheelchair Accessible Vehicles**

- 3.17.1 Sections 165 – 167 of the Equality Act 2010 came into force in April 2017. The legislation places obligations on the drivers of designated wheelchair accessible vehicles to:
- transport wheelchair users in their wheelchair
  - provide passengers in wheelchairs with appropriate assistance
  - charge wheelchair users the same as non-wheelchair users
- 3.17.2 Drivers found to be discriminating against wheelchair users can be fined up to £1,000. Drivers may also face having their taxi or private hire vehicle licence suspended or revoked by their licensing authority. Drivers unable to provide assistance for medical reasons are able to apply to the Council for an exemption from the requirements.
- 3.17.3 The new powers only apply in those areas where the licensing authority has decided to maintain a list of designated vehicles under section 167 of the Equality Act 2010, and where the driver is driving a vehicle included on the list of designated vehicles maintained by the licensing authority.
- 3.17.4 Bromsgrove District Council has adopted a position statement on sections 165 – 167 of the Equality Act 2010, which can be seen at Annex E.

## **3.18.0 Exempting Proprietor's from Displaying External Licence Plate on a Private Hire Vehicle**

- 3.18.1 The Council has adopted a policy on the very limited circumstances where it will provide an exemption to the proprietor of a private hire vehicle from the requirement to display an external licence plate on the vehicle. This policy can be seen at Annex F.



### PROPOSED ALTERNATIVE WORDING

#### Vehicles written off for insurance purposes

- 3.3.11 The Council will not renew any licence to use a vehicle as a hackney carriage if the **relevant** vehicle has ~~been~~ **become** graded as a Category A, Category B or Category C or Category S write-off for insurance purposes **after the date on which the vehicle was first licensed by the Council to be used as a hackney carriage.**

#### Vehicles written off for insurance purposes

- 3.4.11 The Council will not renew any licence to use a vehicle as a private hire vehicle if the **relevant** vehicle has ~~been~~ **become** graded as a Category A, Category B or Category C or Category S write-off for insurance purposes **after the date on which the vehicle was first licensed by the Council to be used as a private hire vehicle.**

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## LICENSING COMMITTEE

**22<sup>nd</sup> July 2024**

### LICENSING COMMITTEE WORK PROGRAMME 2024/25

#### 22<sup>nd</sup> July 2024

- Draft Policy on Pavement Licensing – Approval to consult
- Mandatory safeguarding training for licensed drivers
- Renewal of licences for vehicles previously written off

#### **Closed Session**

- Any Enforcement / Appeals Updates – (verbal) Dave Etheridge

#### 9<sup>th</sup> September 2024

- CCTV in licensed hackney carriage and private hire vehicles
- Revised Statement of Principles under Gambling Act 2005 – Consideration of responses to consultation

#### **Closed Session**

- Any Enforcement / Appeals Updates – (verbal) Dave Etheridge

#### 11<sup>th</sup> November 2024

- Annual review of hackney carriage table of fares
- Draft Policy on Pavement Licensing - Consideration of responses to consultation

#### **Closed Session**

- Any Enforcement / Appeals Updates – (verbal) Dave Etheridge

#### 24<sup>th</sup> March 2025

- Review of Street Trading Policy

#### **Closed Session**

- Any Enforcement / Appeals Updates – (verbal) Dave Etheridge

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