

Licensing Committee

Thursday 14 November 2013 at 10.00 am

**To be held at at the Town Hall,
Pinstone Street, Sheffield, S1 2HH**

The Press and Public are Welcome to Attend

Membership

Councillors Clive Skelton (Chair), Jenny Armstrong, David Barker, Nikki Bond, Jillian Creasy, Roger Davison, Neale Gibson, Adam Hurst, George Lindars-Hammond, Denise Reaney, Nikki Sharpe, Stuart Wattam, Cliff Woodcraft and Joyce Wright

PUBLIC ACCESS TO THE MEETING

The Licensing Committee carries out a statutory licensing role, including licensing for taxis and public entertainment.

A copy of the agenda and reports is available on the Council's website at www.sheffield.gov.uk. You can also see the reports to be discussed at the meeting if you call at the First Point Reception, Town Hall, Pinstone Street entrance. The Reception is open between 9.00 am and 5.00 pm, Monday to Thursday and between 9.00 am and 4.45 pm. on Friday, or you can ring on telephone no. 2734552.

You may not be allowed to see some reports because they contain confidential information. These items are usually marked * on the agenda.

Recording is allowed at Licensing Committee meetings under the direction of the Chair of the meeting. Please see the website or contact Democratic Services for details of the Council's protocol on audio/visual recording and photography at council meetings.

If you would like to attend the meeting please report to the First Point Reception desk where you will be directed to the meeting room.

If you require any further information please contact Harry Clarke on 0114 273 6183 or email harry.clarke@sheffield.gov.uk.

FACILITIES

There are public toilets available, with wheelchair access, on the ground floor of the Town Hall. Induction loop facilities are available in meeting rooms.

Access for people with mobility difficulties can be obtained through the ramp on the side to the main Town Hall entrance.

**LICENSING COMMITTEE AGENDA
14 NOVEMBER 2013**

Order of Business

- 1. Welcome and Housekeeping Arrangements**
- 2. Apologies for Absence**
- 3. Exclusion of Public and Press**
To identify items where resolutions may be moved to exclude the press and public
- 4. Declarations of Interest**
Members to declare any interests they have in the business to be considered at the meeting.
- 5. Minutes of Previous Meetings**
To approve the minutes of the meetings held on:-

9 September 2013
10 September 2013
12 September 2013
16 September 2013
23 September 2013
26 September 2013
30 September 2013
3 October 2013
10 October 2013
- 6. Private Hire and Hackney Carriage Licensing - Driver and Applicant Referrals Policy - Review**
Report of the Chief Licensing Officer
- 7. Private Hire and Hackney Carriage Licensing - Taxi Enforcement Review**
Report of the Chief Licensing Officer

ADVICE TO MEMBERS ON DECLARING INTERESTS AT MEETINGS

A new Standards regime was introduced on 1st July, 2012 by the Localism Act 2011. The new regime made changes to the way that your interests needed to be registered and declared. Prejudicial and personal interests no longer exist and they have been replaced by Disclosable Pecuniary Interests (DPIs).

The Act also required that provision is made for interests which are not Disclosable Pecuniary Interests and required the Council to introduce a new local Code of

Conduct for Members. Provision has been made in the new Code for dealing with “personal” interests.

Guidance on declarations of interest, incorporating regulations published by the Government in relation to Disclosable Pecuniary Interests, has been circulated to you previously, and has been published on the Council’s website as a downloadable document at -<http://councillors.sheffield.gov.uk/councillors/register-of-councillors-interests>

If at all possible, you should try to identify any potential interest you may have before the meeting so that you and the person you ask for advice can fully consider all the circumstances before reaching a conclusion on what action you should take.

Further advice can be obtained from Lynne Bird, Director of Legal Services on 0114 2734018 or email lynne.bird@sheffield.gov.uk

ADVICE TO MEMBERS ON DECLARING INTERESTS AT MEETINGS

New standards arrangements were introduced by the Localism Act 2011. The new regime made changes to the way that members' interests are registered and declared.

If you are present at a meeting of the Council, of its executive or any committee of the executive, or of any committee, sub-committee, joint committee, or joint sub-committee of the authority, and you have a **Disclosable Pecuniary Interest** (DPI) relating to any business that will be considered at the meeting, you must not:

- participate in any discussion of the business at the meeting, or if you become aware of your Disclosable Pecuniary Interest during the meeting, participate further in any discussion of the business, or
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

You **must**:

- leave the room (in accordance with the Members' Code of Conduct)
- make a verbal declaration of the existence and nature of any DPI at any meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent.
- declare it to the meeting and notify the Council's Monitoring Officer within 28 days, if the DPI is not already registered.

If you have any of the following pecuniary interests, they are your **disclosable pecuniary interests** under the new national rules. You have a pecuniary interest if you, or your spouse or civil partner, have a pecuniary interest.

- Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.
- Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period* in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

*The relevant period is the 12 months ending on the day when you tell the Monitoring Officer about your disclosable pecuniary interests.

- Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -
 - under which goods or services are to be provided or works are to be executed; and
 - which has not been fully discharged.
- Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.
- Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.
- Any tenancy where (to your knowledge) -
 - the landlord is your council or authority; and
 - the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.
- Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -
 - (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
 - (b) either -
 - the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

If you attend a meeting at which any item of business is to be considered and you are aware that you have a **personal interest** in the matter which does not amount to a DPI, you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent. You should leave the room if your continued presence is incompatible with the 7 Principles of Public Life (selflessness; integrity; objectivity; accountability; openness; honesty; and leadership).

You have a personal interest where –

- a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing (including interests in

land and easements over land) of you or a member of your family or a person or an organisation with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the Authority's administrative area, or

- it relates to or is likely to affect any of the interests that are defined as DPIs but are in respect of a member of your family (other than a partner) or a person with whom you have a close association.

Guidance on declarations of interest, incorporating regulations published by the Government in relation to Disclosable Pecuniary Interests, has been circulated to you previously, and has been published on the Council's website as a downloadable document at -<http://councillors.sheffield.gov.uk/councillors/register-of-councillors-interests>

You should identify any potential interest you may have relating to business to be considered at the meeting. This will help you and anyone that you ask for advice to fully consider all the circumstances before deciding what action you should take.

In certain circumstances the Council may grant a **dispensation** to permit a Member to take part in the business of the Authority even if the member has a Disclosable Pecuniary Interest relating to that business.

To obtain a dispensation, you must write to the Monitoring Officer at least 48 hours before the meeting in question, explaining why a dispensation is sought and desirable, and specifying the period of time for which it is sought. The Monitoring Officer may consult with the Independent Person or the Council's Standards Committee in relation to a request for dispensation.

Further advice can be obtained from Lynne Bird, Director of Legal Services on 0114 2734018 or email lynne.bird@sheffield.gov.uk

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Licensing Sub-Committee

Meeting held 9 September 2013

PRESENT: Councillors Clive Skelton (Deputy Chair), David Barker and Nikki Sharpe

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1. APOLOGIES FOR ABSENCE

1.1 An apology for absence was received from the Chair (Councillor John Robson).

2. EXCLUSION OF PUBLIC AND PRESS

2.1 **RESOLVED:** That the public and press be excluded from the meeting before discussion takes place on item 4 on the grounds that, if the public and press were present during the transaction of such business, there would be a disclosure to them of exempt information as described in paragraphs 1 and 2 of Schedule 12A to the Local Government Act 1972, as amended.

3. DECLARATIONS OF INTEREST

3.1 There were no declarations of interest.

4. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING - INDIVIDUAL CASES

4.1 The Chief Licensing Officer submitted details in respect of three cases relating to Hackney Carriage and Private Hire Licensing.

4.2 The applicant in Case No. 71/13 attended the hearing with a representative and they both addressed the Sub-Committee.

4.3 The licence holder in Case No. 72/13 attended the hearing with a representative and they both addressed the Sub-Committee.

4.4 The licence holder in Case No. 73/13 attended the hearing with a representative and they both addressed the Sub-Committee.

4.5 **RESOLVED:** That the cases now submitted be determined as follows:-

<u>Case No.</u>	<u>Licence Type</u>	<u>Decision</u>
71/13	Application for a first Hackney Carriage and Private Hire Driver's Licence	Grant a licence for the normal term of nine months and, on the first renewal, authority be given to grant the applicant a 12 month licence and, on any subsequent renewal, an 18 month licence, subject to there being no further cause for concern.
72/13	Review of a	Agree that (a) no further action be taken;

	Hackney Carriage and Private Hire Driver's Licence	(b) the licence holder be requested to achieve the BTEC Level 2 Certificate in Introduction to the Role of the Professional Taxi and Private Hire Driver by the time of the renewal of his Hackney Carriage and Private Hire Driver's Licence on 15 th December 2014 and, in the event of non-compliance with this request, any such renewal application be referred to the Sub-Committee; and (c) in the event of the licence holder achieving the aforementioned BTEC Level Certificate, authority be given to grant the licence holder an 18 month licence, subject to there being no further cause for concern.
73/13	Review of a Hackney Carriage and Private Hire Driver's Licence	Issue a written warning as to the licence holder's future conduct, such warning to remain live during the currency of his present licence until its expiry on 15 th June 2014.

SHEFFIELD CITY COUNCIL

Licensing Sub-Committee

Meeting held 10 September 2013

PRESENT: Councillors Clive Skelton (Deputy Chair), Adam Hurst and Nikki Sharpe

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1. APOLOGIES FOR ABSENCE

1.1 An apology for absence was received from the Chair (Councillor John Robson).

2. EXCLUSION OF PUBLIC AND PRESS

2.1 No items were identified where resolutions may be moved to exclude the public and press.

3. DECLARATIONS OF INTEREST

3.1 There were no declarations of interest.

4. LICENSING ACT 2003 - THE BASEMENT, 102-104 WEST STREET, SHEFFIELD, S1 4EP

4.1 The Chief Licensing Officer submitted a report to consider an application to vary a Premises Licence, made under Section 34 of the Licensing Act 2003, in respect of the premises known as The Basement, 102-104 West Street, Sheffield, S1 4EP.

4.2 Present at the meeting were Chris Grunert (John Gaunt, Solicitors, for the applicant), Peter Clifton (Applicant), Michael Dean (Designated Premises Supervisor), Rachael Jacob, Martin Lawlor and Julie Wilson (Objectors), Louise Thomas (Environmental Protection Service), Matt Proctor (Senior Licensing Officer), Carolyn Forster (Solicitor to the Sub-Committee) and John Turner (Democratic Services).

4.3 Carolyn Forster outlined the procedure which would be followed during the hearing.

4.4 Matt Proctor presented the report to the Sub-Committee and it was noted that representations had been received from four members of the public, and were attached at Appendix 'C' to the report, and that the representations submitted by the City Council's Environmental Protection Service had been withdrawn following the acceptance of a number of suggested conditions by the applicant. Two members of the public attended the hearing to put forward their representations.

4.5 Julie Wilson stated that she had lived in her 5th floor apartment in Morton Works for eight years and whilst she was not affected so much by noise nuisance from The Basement, her concerns related mainly to the gradual increase in anti-social behaviour in and around the entrance to Morton Works. She stated that there were very few problems, if any, when the premises operated as a wine bar some years ago, but the change to a "cheaper" drinking establishment resulted in an increase

in problems of noise nuisance and anti-social behaviour. The bar then closed and residents of Morton Works noticed an improvement, but when The Basement opened, the problems started up again. She stated that the only access to the apartments within the building was a few yards from the entrance to The Basement, and problems were caused when the premises Door Supervisors moved customers away from the entrance of the bar as they would then often congregate in and around the entrance to Morton Works. People who came out of the premises to smoke would often congregate in the entrance area and some had "tailgated" residents into the building in order to shelter from bad weather. There had also been an increase in vomit and other matter deposited in the entrance, particularly at weekends, and this had increased dramatically since the bar had recently re-opened. Ms Wilson stated that she considered that the premises management did not appear to be a responsible neighbour and that they should be more aware of the needs and rights of residents of Morton Works.

4.6 Rachael Jacob stated that she objected to the extended opening times on the grounds that the residents of Morton Works would be subjected to noise nuisance later into the mornings and an increase in anti-social behaviour from customers visiting the bar. She stated that most of the other bars in the area closed earlier than 03:00 hours, apart from West Street Live, which had no residential accommodation next door or above. She referred to the planned attenuation measures, indicating that the proposed extension of hours should not be granted until such works had been completed and proved to be effective. Ms Jacob also raised concerns regarding customers of The Basement hanging around the entrance to the apartments, creating problems for residents in terms of how some of them used the area as a toilet and a place to vomit, as well as it being very intimidating for residents when having to walk past them to get into the building. She made reference to the conditions which had been agreed between the applicant and the Environmental Protection Service, specifically to the required actions of the Door Supervisors, indicating that she was not confident that this would make any difference as the staff should be moving customers away from the entrance to Morton Works now. She also referred to the anti-social behaviour she had witnessed around the garage entrance in the lane at the rear of Morton Works, which is overlooked by her apartment.

4.7 In response to questions from Members of, and the Solicitor to, the Sub-Committee and Chris Grunert, Rachael Jacob stated that whilst she could cope with the noise from the premises to some extent on Friday and Saturday, she objected to the plan to extend the opening hours to 03:00 hours every day of the week. Julie Wilson stated that she had contacted the '101' number on about three occasions, to report problems of customers from the bar either congregating in the entrance to Morton Works, or 'tailgating' residents into the building, with the last call being made during the Tramlines Festival, on 21st July 2013. Ms Jacob stated that she could not recall the number of times she had complained about noise nuisance and anti-social behaviour, but stated that the last call she had made was about two months ago. She had met with staff from the premises to discuss her concerns, as well as meeting with officers from the Environmental Protection Service to discuss the issues of noise nuisance. She stated that the situation normally improved after such meetings, then would usually deteriorate shortly afterwards. The objectors confirmed that they were not part of a constituted Residents' Association, which

was mainly due to the fact that a high number of residents in the apartments were transient and/or did not wish to get involved in any such organisations. Ms Jacob recognised the intentions behind No. 8 of the agreed conditions, relating to the requirement for sound attenuation works to be carried out to the satisfaction of the Environmental Protection Service prior to any regulated entertainment taking place beyond the existing permitted times. In terms of linking the noise nuisance and anti-social behaviour directly to the premises, Ms Wilson stated that when the premises were not operating, there were no such problems, and the problems started again when the venue opened as The Basement, meaning that there was a direct link to the issues complained of, and the premises. She added that she had witnessed door staff moving people away from the entrance to Morton Works. Regarding the additional evidence circulated by the applicant's Solicitor, relating to a number of new policies to be adopted, in response to the objectors' concerns, Ms Wilson stated that whilst she welcomed the efforts being made, she was not confident that it would solve all the problems. Whilst Ms Wilson accepted that she had had no direct contact with the premises to discuss the issues, she had spoken to a cleaner, and asked if she could clean the entrance to the apartments. She did consider that the additional measures planned to be undertaken, as now circulated, represented the actions of a good neighbour, but only if such policies were adhered to. Ms Jacob stated that she had only received one of the letters which had purported to have been sent to all residents of Morton Works from the premises management and that the most recent call she had made in terms of a complaint was to the '101' number as she had become frustrated at the lack of action following calls to, and contact, with the premises management. Ms Wilson confirmed that she had received two letters sent to residents and that all her calls in terms of complaints about the premises (three in total) had been exclusively to the '101' number.

- 4.8 Chris Grunert put forward the case on behalf of the applicant, referring to the three elements of the proposed variation to the Premises Licence, which included changes to the layout of the premises, the removal of a number of historical/defunct conditions on the existing Licence and the extension of the trading hours. He appreciated the concerns raised by the objectors, regarding the extension of trading hours, indicating that there would still be a number of bars in the area with later opening hours and that the bar would not necessarily be open until 03:00 hours every morning. He stated that the applicant had knowledge and experience of the trade as he owned a number of other licensed premises in the City. He referred to the conditions agreed with the Environmental Protection Service prior to the hearing and stated that, as well as there being continuing dialogue between Louise Thomas, Environmental Protection Service, and the applicant in connection with the conditions, discussions were also being held with Ms Jacob in connection with the monitoring of the noise nuisance. He believed that the proposed noise attenuation measures would help to resolve the problems being faced by residents and stressed that no regulated entertainment would take place beyond the existing permitted times until such works had been carried out to the written satisfaction of the Environmental Protection Service. In terms of addressing the objections now raised by local residents, Mr Grunert stated that due to Morton Works' City Centre location, there was always likely to be an element of noise nuisance and other disturbance, but he was confident that the agreed conditions and the planned policies and procedures, now circulated, would help to

address the residents' concerns, as well as providing the necessary flexibility for the premises to manage the issues. He made reference to the letters sent to residents and the notices affixed in the lobby area of Morton Works, which aimed to keep residents up to date in terms of the operation of the premises. As a further means of addressing the residents' concerns, and as a way of maintaining communication with residents of Morton Works, the applicant had also planned to open the premises on the first Friday of each month, between 18:00 and 20:00 hours, to enable residents to discuss any concerns or issues they had, and also provide residents with a mobile phone number and email address, which they could use to report any issues or problems. He stated that the agreed conditions and planned policies would address the issue of customers congregating at the entrance to Morton Works, with arrangements to be made for Door Supervisors to monitor this situation initially and, if there were further problems, the Security Industry Association (SIA) staff would be called, as well as the Police if required. Mr Grunert stated that, whilst he accepted that some of the problems raised by the objectors were linked to the premises, there was no clear evidence that the anti-social behaviour, particularly in the lane to the rear of Morton Works, was caused solely by customers from The Basement. He stated that the applicant would be happy to become a member of a residents' association if one was established and concluded by stating that the premises was not responsible for contributing to, or causing, anti-social behaviour in the area, any more than any of the other bars within the immediate vicinity.

- 4.9 In response to questions from Members of, and the Solicitor to, the Sub-Committee and Julie Wilson and Rachael Jacob, Mr Grunert stated that there was an acoustics report on the premises and, whilst it was not attached to the report, copies could be made available if requested. He added that not every apartment in Morton Works was affected by the noise from the premises and referred to the specific problems experienced by Ms Jacob, indicating that as her apartment was situated next to a lift shaft, the sound travelled up from the premises, through the shaft. The planned works to remedy this situation would take place as soon after the licensing and planning approvals had been granted. It was stated that the CCTV system would enable the premises management to monitor the problems of customers congregating at the entrance to Morton Works. Mr Grunert stated that, subject to the decision at this hearing, although the premises could open until 03:00 hours, it was not expected that they would open until this time every morning. The premises would open until this time at weekends and on Wednesdays, when they hosted a student night, and the opening times on the other nights would depend on demand. He confirmed that, as set out in No. 23, Annexe 2 – Conditions consistent with the operating schedule - prominent, clear and legible notices, requesting the public respect the needs of local residents by leaving the premises and area quietly, were displayed at all exits at the premises. In terms of the policies circulated at the hearing, Mr Grunert stated that there was a managed smoking area outside the premises at the present time. As the bar was considered more of a link in a circuit of other bars, there were rarely problems with regard to significant numbers of customers hanging around at closing time, therefore, prior to the objections being received from the residents, the problems caused by customers congregating in the entrance to Morton Works had not been perceived as a major issue. However, following the residents' concerns, the new policies should hopefully address this, and customers would be moved further

away from the premises. If the variation was granted, it was proposed that there would be two Door Supervisors monitoring the external area at weekends and Wednesdays, and one Supervisor on duty for the other days of the week. With regard to the offer of a mobile phone number and email address being available for residents to contact premises management to raise any concerns, Mr Grunert stated that it would be the responsibility of Michael Dean, Designated Premises Supervisor, to ensure that the phone and computer were checked on a regular basis. One of the new policies would include improved management of the smoking area and customers would not be allowed to take their drinks outside when using this area. In terms of the cleaning of the entrance to Morton Works, it was proposed that the requirement to monitor this would be included in the Door Supervisors' job description and in addition to this, this requirement would also be included on a 'close down' list, which would comprise a number of jobs to be undertaken at closing time. In terms of the regular monthly meetings between premises management and residents, it was hoped that the residents would become aware of the regularity of such meetings and attend if and when necessary. Mr Grunert stated that ideally, it would be preferable if the residents formed a constituted residents' association in order to assist with dialogue between themselves and the premises. Mr Grunert was unable to comment as to whether there were other bars with late opening hours situated within residential buildings in the City, but stated that he was aware of other late bars with residential accommodation nearby. Whilst it may not be possible to resolve all the issues raised by the residents, the premises management would do everything within their power in an attempt to address the issues as best they can. The premises management have not identified the anti-social behaviour around the garage entrance in the lane at the rear of the premises as a major issue, but they would monitor the situation and review, on a case by case basis, whether it would be safe sending their Door Stewards to investigate or monitor any reported incidents.

- 4.10 Chris Grunert summarised the case on behalf of the applicant.
- 4.11 RESOLVED: That the public and press and attendees involved in the application be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.
- 4.12 Carolyn Forster reported orally, giving legal advice on various aspects of the application.
- 4.13 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.
- 4.14 RESOLVED: That the Sub-Committee:-
- (a) agrees to grant a variation to the Premises Licence in respect of the Basement, 102-104 West Street, Sheffield, S1 4EP, in the terms requested and subject to the conditions agreed between the applicant and the Environmental Protection Service, as detailed in the report;

- (b) accepts that the Policies now circulated on behalf of the applicant should be incorporated into the premises Operating Schedule; and
- (c) recommends that (i) regular meetings be held between premises management and residents, along the lines now reported and (ii) a mobile phone number and e-mail address be made available for residents to report any issues or concerns regarding the operation of the premises.

(The full reasons for the Sub-Committee's decision and the operating conditions will be included in the written Notice of Determination.)

SHEFFIELD CITY COUNCIL

Licensing Committee

Meeting held 12 September 2013

PRESENT: Councillors Clive Skelton (Deputy Chair), Nikki Bond, Jillian Creasy, Roger Davison, Neale Gibson, Adam Hurst, George Lindars-Hammond, Denise Reaney, Stuart Wattam, Cliff Woodcraft and Joyce Wright

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1. APOLOGIES FOR ABSENCE

1.1 Apologies for absence were received from the Chair (Councillor John Robson) and Councillor Nikki Sharpe.

2. EXCLUSION OF PUBLIC AND PRESS

2.1 No items were identified where resolutions may be moved to exclude the public and press.

3. DECLARATIONS OF INTEREST

3.1 There were no declarations of interest.

4. MINUTES OF PREVIOUS MEETINGS

4.1 The minutes of the meetings of the Licensing Committee held on 25th July, 2013 and the Licensing Sub-Committee held on 10th, 11th, 17th, 20th, 24th and 27th June, 1st, 2nd, 8th, 15th, 16th, 18th, 22nd, 23rd, 29th and 30th July and 1st and 5th August, 2013 were approved as correct records.

5. SCRAP METAL DEALERS ACT 2013

5.1 The Committee received a report of the Chief Licensing Officer informing Members of the new Scrap Metal Dealers Act 2013.

5.2 Shimla Finch, Principal Licensing Officer, informed Members of the new Act and its implications, which was due to come into effect on the 1st October, 2013 and asked that the Committee approve the fees and application documents for a Scrap Metal Dealer licence, as outlined in the report, and give approval for the published scheme of delegation to be amended to reflect the legislative changes.

5.3 Shimla Finch stated that the statute revises the regulatory regime for scrap metal dealing and vehicle dismantling and that Local Authorities will continue to act as the main regulator, but the new statute gives Authorities more powers to refuse and revoke licences if it considers dealers to be unsuitable and allows them greater rights of entry and inspection. She added that the changes in the legislation have been prompted by the impact of metal theft which has become an increasing problem across the United Kingdom as the value of metal has risen.

- 5.4 Shimla Finch outlined the two types of licence to be brought in by the Act, these being a “site licence” and a “collector’s licence”. She stated that a person can only hold one licence in a Local Authority area, but can hold a licence in more than one Local Authority area. She indicated that a site licence requires all of the sites at which the licensee carries on the business as a scrap metal dealer within the Local Authority area to be identified, and a site manager be named for each site. A collector’s licence authorises the licensee to operate as a mobile collector in the area of the issuing local authority but does not permit the collection of scrap metal from any other local authority area nor does it allow the licensee to carry on a business at a site within any area.
- 5.5 Shimla Finch added that scrap metal dealers who are currently registered under the Scrap Metal Dealers Act 1964 or Vehicles (Crime) Act 2001 (Motor Salvage Operators) will be deemed to currently hold a licence but are required to submit an application for a licence between the 1st and 15th October, 2013. A temporary licence will be issued and valid until a formal licence decision is issued by the Local Authority. If a registered dealer does not submit an application by the 15th October, they would be required to apply for a new licence. Scrap metal dealers who are not currently registered can apply for a licence but until such licence is issued, they cannot trade legally.
- 5.6 Shimla Finch then stated that the application for a licence must be accompanied by a fee, as it will provide Local Authorities with the funding needed to administer the system and ensure compliance.
- 5.7 In response to questions from Members of the Committee, Shimla Finch stated that under the Act, licences must be displayed in a prominent place in an area accessible to the public, currently these will be placed on the dashboard of vehicles and the Licensing Section were looking into ways of displaying licences more prominently, but this would possibly mean an increase in fees.
- 5.8 RESOLVED: That (a) the Committee approves the new forms, proposed new fees and recommends that the Council amends the Licensing Committee’s published scheme of delegation to reflect the legislative changes; and
- (b) greater publicity is given to the commencement of the new Act.

6. PRIVATE HIRE AND HACKNEY CARRIAGE LICENSING - DRIVERS/APPLICANTS REFERRAL POLICY

- 6.1 The Chief Licensing Officer submitted a report relating to the review of the current policy in respect of referring current and prospective licensed drivers to the Licensing Sub-Committee and the setting of the guidelines as to when a driver and applicant should be referred.
- 6.2 Clive Stephenson, Principal Licensing Officer, presented the report and stated that the current referrals procedure has been in place since 2009, and the Local Authority aims to conduct a review of licensing policies on a three yearly cycle and therefore it is before the Licensing Committee for consideration. He stated that

similarly with most policies it is a source of guidance only and can be subject to interpretation. He stated that the report gives a flavour to Members of policies which are adopted in different parts of the country and is source of information only and not recommendation.

- 6.3 In response to questions, Clive Stephenson stated that in most instances, Licensing Officers are able to grant licences when satisfied that the person is a fit and proper person to hold a licence and use their discretion as to when it is appropriate for an applicant to be referred to the Sub-Committee for consideration. He added that Licensing Officers have a duty of care to the public to follow up any complaints received and check with the driver regarding the circumstances of a complaint before deciding on what action to be taken.
- 6.4 Members felt there was a need for greater clarity as to the nature of the warnings issued, the number of warnings given before a referral is made to the Licensing Committee and that consideration be given as to the length of time a warning remains on a licence.
- 6.5 The Committee heard representations from Hafeas Rehman (Sheffield Taxi Trade Association) and Peter Davies (GMB trade union), who both indicated that they were happy with the current policy. They stated the present system is fair, works well and nothing needs to change.
- 6.6 RESOLVED: That the Committee determines that there should be no major change to the policy as set out in the report, but requests the Chief Licensing Officer to report to the Committee in three months' time (a) with proposals for the inclusion within the policy of any conviction for any drugs offences or related offences to the supply of drugs resulting in a custodial sentence or drug related offences which the Chief Licensing Officer considers to be of a serious nature, any caution or fixed penalty notice for any drugs offences or related offences to the supply of drugs and (b) with regard to the definition of offences and warnings and that any caution and/or conviction of drug offences be included within the current policy.

7. PRIVATE HIRE AND HACKNEY CARRIAGE LICENSING - HACKNEY CARRIAGE APPLICATION POLICY

- 7.1 The Chief Licensing Officer submitted a report asking Members to consider the need for Sheffield City Council to introduce a policy in relation to the Hackney Carriage Vehicles it licences and where those vehicles will trade and be used.
- 7.2 Clive Stephenson, Principal Licensing Officer, gave background information to the policy and stated that the Licensing Section wanted to take the "moral high ground" on this and stated that in Sheffield, there is a limitation policy on the number of Hackney Carriages for a reason and recently there has been an increase in the population of "out of town" Hackney Carriages working within the Sheffield District.
- 7.3 Members of the Committee and Trade Association representatives made a number of comments regarding the report.

- 7.4 RESOLVED: That the Committee, although supporting the policy in principle, requests the Chief Licensing Officer to report back to the Committee in three months' time with further clarification on the specific wording to be introduced into the application form for new and renewal applications and within the wording of the Policy.

SHEFFIELD CITY COUNCIL

Licensing Sub-Committee

Meeting held 16 September 2013

PRESENT: Councillors Clive Skelton (Deputy Chair) and Nikki Bond

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1. APOLOGIES FOR ABSENCE

1.1 An apology for absence was received from the Chair (Councillor John Robson).

2. EXCLUSION OF PUBLIC AND PRESS

2.1 **RESOLVED:** That the public and press be excluded from the meeting before discussion takes place on item 4 on the grounds that, if the public and press were present during the transaction of such business, there would be a disclosure to them of exempt information as described in paragraphs 1 and 2 of Schedule 12A to the Local Government Act 1972, as amended.

3. DECLARATIONS OF INTEREST

3.1 There were no declarations of interest.

4. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING - INDIVIDUAL CASES

4.1 The Chief Licensing Officer submitted details in respect of three cases relating to Hackney Carriage and Private Hire Licensing.

4.2 The applicant in Case No. 74/13 attended the hearing and addressed the Sub-Committee.

4.3 The applicant in Case No. 75/13 attended the hearing and addressed the Sub-Committee.

4.4 The applicant in Case No. 76/13 attended the hearing with a representative and they both addressed the Sub-Committee.

4.5 **RESOLVED:** That the cases now submitted be determined as follows:-

<u>Case No.</u>	<u>Licence Type</u>	<u>Decision</u>
74/13	Application for a new Hackney Carriage and Private Hire Driver's Licence	Grant a licence for nine months and, on the first renewal, authority be given to grant the applicant a 12 month licence and, on any subsequent renewal, an 18 month licence, subject to there being no further cause

75/13	Application for a new Hackney Carriage and Private Hire Driver's Licence	for concern.
76/13	Renewal Application for a Hackney Carriage and Private Hire Driver's Licence	Grant a licence for the shorter term of six months, in the light of the offences and convictions now reported and, on the first renewal, authority be given to grant the applicant a 12 month licence and, on any subsequent renewal, an 18 month licence, subject to there being no further cause for concern. Refuse to renew the licence on the grounds that the Sub-Committee does not consider the applicant to be a fit and proper person in the light of (a) the offences and convictions now reported and (b) the responses to the questions raised.

SHEFFIELD CITY COUNCIL

Licensing Sub-Committee

Meeting held 23 September 2013

PRESENT: Councillors Clive Skelton (Deputy Chair), Jenny Armstrong and Adam Hurst

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1. APOLOGIES FOR ABSENCE

1.1 An apology for absence was received from the Chair (Councillor John Robson).

2. EXCLUSION OF PUBLIC AND PRESS

2.1 RESOLVED: That the public and press be excluded from the meeting before discussion takes place on item 4 on the grounds that, if the public and press were present during the transaction of such business, there would be a disclosure to them of exempt information as described in paragraphs 1 and 2 of Schedule 12A to the Local Government Act 1972, as amended.

3. DECLARATIONS OF INTEREST

3.1 There were no declarations of interest.

4. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING - INDIVIDUAL CASES

4.1 The Chief Licensing Officer submitted details in respect of three cases relating to Hackney Carriage and Private Hire Licensing.

4.2 The applicant in Case No. 77/13 attended the hearing with a representative and they both addressed the Sub-Committee.

4.3 The applicant in Case No. 78/13 attended the hearing with a representative and they both addressed the Sub-Committee.

4.4 The applicant in Case No. 79/13 attended the hearing with a representative and they both addressed the Sub-Committee.

4.5 RESOLVED: That the cases now submitted be determined as follows:-

<u>Case No.</u>	<u>Licence Type</u>	<u>Decision</u>
77/13	Application for a new Hackney Carriage and Private Hire Driver's Licence	Refuse to grant a licence on the grounds that the Sub-Committee does not consider the applicant to be a fit and proper person to hold a licence in the light of (a) his offences and convictions, (b) the responses provided to the

questions raised and (c) his lack of driving experience since the date of his last conviction.

78/13 Application for a new
Hackney Carriage and
Private Hire Driver's
Licence

Grant a licence for nine months and, on the first renewal, authority be given to grant the applicant a 12 month licence and, on any subsequent renewal, an 18 month licence, subject to there being no further cause for concern.

79/13 Application for a new
Hackney Carriage and
Private Hire Driver's
Licence

Defer a decision on the application pending enquiries of the Local Authority where the applicant used to live, in terms of his taxi driving record, and arrangements be made for the application to be considered at a future meeting of the Sub-Committee.

SHEFFIELD CITY COUNCIL

Licensing Sub-Committee

Meeting held 26 September 2013

PRESENT: Councillors Clive Skelton (Deputy Chair), Stuart Wattam and Joyce Wright

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1. APOLOGIES FOR ABSENCE

1.1 An apology for absence was received from the Chair (Councillor John Robson).

2. EXCLUSION OF PUBLIC AND PRESS

2.1 No items were identified where resolutions may be moved to exclude the public and press.

3. DECLARATIONS OF INTEREST

3.1 There were no declarations of interest.

4. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 - STREET TRADING - STATIC APPLICATION AND FOOTBALL APPLICATION - UNIT 2 CLAYWHEELS LANE

4.1 The Chief Licensing Officer submitted a report to consider two applications, under the Local Government (Miscellaneous Provisions) Act 1982, for a static and football street trading consent to trade outside Unit 2 Claywheels Lane (Ref. No. 56/13).

4.2 Present at the meeting were Fay Mullen and Lynn Egley (Applicants), Lisa Cowlshaw, HR Manager, Fletchers Bakery (Objector), Andy Ruston (Senior Licensing Officer), Carolyn Forster (Solicitor to the Sub-Committee) and Jennie Skiba (Democratic Services).

4.3 Carolyn Forster outlined the procedure which would be followed during the hearing.

4.4 Andy Ruston presented the report to the Sub-Committee and it was noted that an objection to both applications had been received from a local business and were attached at Appendix "D" to the report.

4.5 Lisa Cowlshaw stated that her concerns were regarding the positioning of the hot and cold food van which was to be located directly opposite the main entrance to the Bakery. She added that on average between 60 and 90 HGV vehicles attended the site, meaning between 120 and 180 vehicular movements on and off site, on a daily basis, in addition to staff vehicles on and off site and felt that vehicles stopping next to the food van could potentially cause a major obstruction and hinder the safe entry and exit on and off the site.

- 4.6 Lisa Cowlshaw referred to a friendly football match which had been held in the area during the summer and stated that football fans had congregated in the highway causing traffic problems and also tried entering the bakery premises to use toilets and extra security guards had been drafted in to secure the site.
- 4.7 Lisa Cowlshaw stated that the Company have a comprehensive system in place which checks that all products delivered to the site are allergen free and that weekly samples are taken checking for different bacteria which could put employees and customers at risk. She added that staff were required to wear site captive footwear on the shop floor, but not to be worn off-site.
- 4.8 In response to questions from Members of and the Solicitor to, the Sub-Committee, Lisa Cowlshaw said that at present staff had no reason to leave the premises and the siting of the van might encourage staff to take health and safety risks and breach Company policy.
- 4.9 Fay Mullen and Lynn Egley then put forward their case for the application and stated that they are former employees of the catering company who operate the canteen facility at Fletchers Bakery. Fay Mullen stated that she had been Canteen Manager and had brought the hygiene rating from Level 2 to Level 4 and was fully aware of food safety management and health and safety and would adhere to these high standards. She said that she fully intended to keep food allergens under control and welcomed staff from Fletchers Bakery to check the standards of the food van at any time. Fay and her partner wanted to provide a high quality service from their van to workforces at the various factory units on Claywheels Lane.
- 4.10 In response to questions from Members of the Sub-Committee, Fay Mullen stated that they were prepared to collect any rubbish from the surrounding area and would take advice from the Licensing Section as to where waste bins should be sited. She added that the entrance to the van would be positioned away from the highway so that customers would not be queuing in the highway and that, at present, the location of the van was outside an empty Unit, but if the Unit should become occupied, they would be prepared to move to another site along Claywheels Lane.
- 4.11 **RESOLVED:** That the public and press and attendees involved in the application be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.
- 4.12 Carolyn Forster reported orally, giving legal advice on various aspects of the application.
- 4.13 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.

- 4.14 RESOLVED: That, following consideration of the information contained in the report now submitted, and the representations now made, the two applications for a static and football street trading consent to trade outside Unit 2 Claywheels Lane, Sheffield (Ref No.56/13) be granted.

(The full reasons for the Sub-Committee's decision will be included in the written Notice of Determination).

5. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 - STREET TRADING - CITY CENTRE SMALL TRADING STALLS

- 5.1 The Chief Licensing Officer submitted a report to consider an application, under the Local Government (Miscellaneous Provisions) Act 1982, for a street trading consent to trade in the city centre (Ref No.57/13).
- 5.2 Present at the meeting were Stephen Harrison (Applicant), Richard Eyre (Head of City Centre Management and Major Events), Paul Turner (Highway Licences and Regulation), Andy Ruston (Senior Licensing Officer), Carolyn Forster (Solicitor to the Sub-Committee) and Jennie Skiba (Democratic Services).
- 5.3 Carolyn Forster outlined the procedure which would be followed during the hearing.
- 5.4 Andy Ruston presented the report to the Sub-Committee and it was noted that objections to the application had been received from the Planning Service, the City Centre Management Team and the Highways Service and were attached at Appendices "C", "D" and "E" to the report. The representative from the Planning Service did not attend the hearing.
- 5.5 Richard Eyre stated that the application to site the mobile catering van in Barkers Pool fails to meet the qualitative criteria that have been agreed by the City Council for static street trading pitches in the City Centre. He added that Barkers Pool is an important city centre open space with a civic function, forming part of the award winning gold route and provides a backdrop to the City Hall which is a grade 2 listed building and he felt that the application, which involves a large motorised vehicle and is not of a high quality design, would be out of character with the surrounding area.
- 5.6 Paul Turner stated that there were no objections from a Highway Authority point of view provided that protective measures to the paving area are put in place and that drip trays are secured underneath the vehicle.
- 5.7 Stephen Harrison put forward his case, stating that he had founded the Snooker Academy in the City and had worked with disadvantaged children. He had previously obtained funding from different areas of the City Council, i.e. Area Panels, Community Assembly but this funding had now ceased. He had then come up with the idea of having the motorised vehicle built and to operate a business from it to raise funds to carry on work within communities and also to raise awareness of the impact that diabetes can have on peoples' lives.

- 5.8 In response to questions from Members of the Sub-Committee, Stephen Harrison stated that he had done a lot of research into the disease and had the support of Diabetes UK and the local Sheffield Universities in his efforts to educate people to the dangers of the condition. He added that he was prepared to travel round the city wherever there was footfall so that his project could really take-off and, would also be prepared to site his vehicle on the Sheffield Hallam University concourse.
- 5.9. RESOLVED: That the public and press and attendees involved in the application be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.
- 5.10 Carolyn Forster reported orally, giving legal advice on various aspects of the application.
- 5.11 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.
- 5.12 RESOLVED: That, following consideration of the information contained in the report now submitted, and the representations now made, the application for a street trading consent to trade in the city centre (Ref No.57/13), be deferred and the applicant be advised to amend his application to seek consent for a site in Devonshire Green.

SHEFFIELD CITY COUNCIL

Licensing Sub-Committee

Meeting held 30 September 2013

PRESENT: Councillors Clive Skelton (Deputy Chair), Adam Hurst and Nikki Bond

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1. APOLOGIES FOR ABSENCE

1.1 Apologies for absence were received from the Chair (Councillor John Robson) and Councillor Roger Davison.

2. EXCLUSION OF PUBLIC AND PRESS

2.1 RESOLVED: That the public and press be excluded from the meeting before discussion takes place on item 4 on the grounds that, if the public and press were present during the transaction of such business, there would be a disclosure to them of exempt information as described in paragraphs 1 and 2 of Schedule 12A to the Local Government Act 1972, as amended.

3. DECLARATIONS OF INTEREST

3.1 There were no declarations of interest.

4. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING - INDIVIDUAL CASES

4.1 The Chief Licensing Officer submitted details in respect of two cases relating to Hackney Carriage and Private Hire Licensing.

4.2 The applicant in Case No. 70/13 attended the hearing and addressed the Sub-Committee.

4.3 The applicant in Case No. 80/13 did not attend the hearing.

4.4 RESOLVED: That the cases now submitted be determined as follows:-

<u>Case No.</u>	<u>Licence Type</u>	<u>Decision</u>
70/13	Application for a new Private Hire Vehicle Licence	Agreed to depart from the current Licensing Policy and issue a licence for the normal term of 12 months in the light of the applicant's exceptional circumstances.
80/13	Review of a Hackney Carriage and Private Hire Driver's Licence	Defer consideration of the review in order to give the applicant one further opportunity to attend and present his case.

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SHEFFIELD CITY COUNCIL

Licensing Sub-Committee

Meeting held 3 October 2013

PRESENT: Councillors Clive Skelton (Deputy Chair), Nikki Bond and Cliff Woodcraft

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1. APOLOGIES FOR ABSENCE

1.1 An apology for absence was received from the Chair, Councillor John Robson. Councillor Stuart Wattam attended as a Reserve, but was not required to stay.

2. EXCLUSION OF PUBLIC AND PRESS

2.1 RESOLVED: That the public and press be excluded from the meeting before discussion takes place on Item 4 on the grounds that, if the public and press were present during the transaction of such business, there would be a disclosure to them of exempt information as described in paragraphs 1 and 2 of Schedule 12A to the Local Government Act 1972, as amended.

3. DECLARATIONS OF INTEREST

3.1 There were no declarations of interest.

4. LICENSING ACT 2003 - PERSONAL LICENCE APPLICATION

4.1 The Chief Licensing Officer submitted a report to consider an application for a Personal Licence made under Section 117 of the Licensing Act 2003 (Case No. 58/13).

4.2 Present at the meeting were the applicant, the applicant's prospective employer, Benita Mumby (South Yorkshire Police Licensing - Objector), Matt Proctor (Senior Licensing Officer), Carolyn Forster (Solicitor to the Sub-Committee) and Harry Clarke (Democratic Services).

4.3 Carolyn Forster outlined the procedure which would be followed during the hearing.

4.4 Matt Proctor presented the report to the Sub-Committee and it was noted that an objection had been received from the South Yorkshire Police Licensing Section and this was attached at Appendix 'B' to the report.

4.5 Benita Mumby made representations on behalf of South Yorkshire Police, referring to the applicant's relevant offences and convictions. She made specific reference to the seriousness of the offences and explained that the convictions were unspent under the terms of Section 5 of the Rehabilitation of Offenders Act 1974. In the light of this, the Police did not believe that the applicant was a fit and proper person to hold a Personal Licence. Benita Mumby also responded to questions raised by Members of the Sub-Committee and the Senior Licensing

Officer.

- 4.6 The applicant addressed the Sub-Committee, emphasising the length of time which had elapsed since he had committed the relevant offences and outlining the employment which he had undertaken since then. He also placed before the Sub-Committee a letter of support. The applicant added that he was trying to better himself and saw the lack of having a Personal Licence as holding him back in this respect. He then responded to a number of questions raised by Members of, and the Solicitor to, the Sub-Committee and the Senior Licensing Officer.
- 4.7 The applicant's prospective employer also addressed the Sub-Committee, stating that he was buying a business, which the applicant had experience of, and was willing to give him an opportunity for employment.
- 4.8 RESOLVED: That the attendees involved in the hearing be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.
- 4.9 Carolyn Forster reported orally, giving legal advice on various aspects of the application.
- 4.10 At this stage in the proceedings, the meeting was re-opened to the attendees.
- 4.11 RESOLVED: That the application for a Personal Licence be rejected on the grounds that, in the light of the representations made, the nature of the offences reported and the applicant's responses to the questions asked, the Sub-Committee considered that granting a Personal Licence in this case (Case No. 58/13) would not be beneficial for the promotion of the licensing objectives.
- 4.12 At this stage in the proceedings, the meeting was re-opened to the public and press.

5. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 - STREET TRADING APPLICATIONS

- 5.1 The Chief Licensing Officer submitted a report to consider two applications for a Static and Football Street Trading Consent to trade outside at the B&Q Car Park, Queens Road, Sheffield (Case No. 59/13).
- 5.2 Present at the meeting were Russell Price (Applicant), Denise McKenna (Objector), Andy Ruston (Senior Licensing Officer), Carolyn Forster (Solicitor to the Sub-Committee) and Harry Clarke (Democratic Services).
- 5.3 Carolyn Forster outlined the procedure which would be followed during the hearing.
- 5.4 Andy Ruston presented the report to the Sub-Committee and it was noted that an objection had been received from a local business concerning both applications

and this was attached at Appendix 'D' to the report.

- 5.5 Denise McKenna stated that her son owned a sandwich shop which was directly across the road from the proposed site, which he had built up into a successful business employing two people. She questioned the need to have another outlet of the same nature in such close proximity and commented on health issues at the site, whilst conceding that these related to a previous operator. Denise McKenna went on to explain that the new business would be in direct competition with her son's business and also with the café in the B&Q store. She also claimed that, with the new business proposing to open at 7.30 am, this would affect their trade with the tradesmen who were picking up supplies at B&Q around that time. In addition, she cited the abundance of sandwich shops in the area and also reported that the proposed unit had been open for business on 28th August 2013, before any permission had been granted.
- 5.6 In response to questions from Members of, and the Solicitor to, the Sub-Committee, Denise McKenna questioned the need for a similar business in such close proximity to her son's, but indicated that she was willing to consider both businesses operating at different hours if the applications were granted. She added that her son's business had only just started opening on a Saturday and that he had had the business for approximately 18 months. She also confirmed that her son's business was located on the opposite side of Queens Road to the B&Q store and that the proposed unit had not operated again since 28th August 2013. She further confirmed that her son's business operated from 6.30 am to 2.00 pm on Monday to Friday and 8.00 am until 1.00 pm on Saturday, adding that other similar businesses in the area were not as close to her son's premises as the proposed unit and expressing further concern at the loss of trade from tradesmen who were collecting supplies from B&Q. She didn't know the hours of the café in B&Q, but felt that this was aimed more at people shopping there. In relation to the operation of a unit at the location previously, Denise McKenna indicated that there had been two previous ones there since her son's shop had opened, but there had been nothing there for a while, which had helped increase his trade. She repeated her concern that the proposed unit was more convenient for tradesmen visiting B&Q and confirmed that her son's business did not operate any loyalty incentives.
- 5.7 Russell Price addressed the Sub-Committee, stating that there had always been competition at the site, with a previous similar business to his own being located there, adding that it was B&Q's intention to provide a better level of service to their customers by having his business there. He went on to refer to the investment in his new trailer and the employment of two people to run it and the strict rules which the agents for B&Q imposed on the operation of outlets such as his. He assured the Sub-Committee that there would be no deliveries unless the trailer was open and that he complied with street trading policy at all times. He would use local suppliers and considered that there were enough customers to give people a choice, with both businesses being able to succeed in this competitive environment.
- 5.8 In response to questions from Members of, and the Solicitor to, the Sub-Committee and the objector, Russell Price explained that he thought he could

trade on 28th August 2013, as he already had the necessary consent for other sites such as the B&Q on Penistone Road. In relation to waste management, he confirmed that all recyclable materials were placed in an appropriate bin, with everything else being collected by B&Q. A waste bin was provided and this was not left out overnight. As part of his relationship with B&Q, he would not only provide a service to their customers but would also offer their staff a discount. The unit would be open 7 days a week and he was expecting that his busiest time would be between 7.30 am and 2.00 pm. In addition, his business would open to accommodate those attending football matches at Bramall Lane. There had been no objections to his operation at the B&Q, Penistone Road and he would consider different hours of opening, but B&Q wanted him there for their core time. He conceded that his trade reduced between 2.00 pm and 4.00 pm. With regard to the football application, he explained that this had been made so that he could still trade on a Saturday, adding that his main focus remained on B&Q. A formal agreement existed between himself and Retail Concessions Management, who were B&Q's agent, who issued operating guidelines and undertook checks on his trailer, electricity supply, hygiene and procedures and conducted audits. This agreement also governed opening times which could not be varied. This agreement also required him to give B&Q staff a discount and he confirmed that staff also got a discount at the café in the B&Q store. The new opening time was 7.30 am and different arrangements operated at different sites, with the Queens Road B&Q being classed as a depot.

- 5.9 As a point of clarification in relation to the Football Consent, Andy Ruston stated that the unit could operate under the Static Consent from 7.30 am to 11.00 am on a Saturday and thereafter would be covered by the Football Consent.
- 5.10 In summary, Denise McKenna reiterated her concerns at the early morning opening and felt that B&Q were concerned more with gaining rental income rather than the service aspect and considered that the applicant could operate his mobile unit elsewhere.
- 5.11 Russell Price summed up by commenting on the risk of customers crossing a busy road and felt that both businesses could survive on the loyalty of their customer base, with enough trade being available for both businesses. He added that his trailer was just replacing one that had been there for a number of years and emphasised that his business hours needed to coincide with those of the B&Q store. Finally, he stated that he had spent £30,000 on a trailer and had trained staff to operate his business at that site.
- 5.12 RESOLVED: That the public and press and attendees involved in the hearing be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.
- 5.13 Carolyn Forster reported orally, giving legal advice on various aspects of the application.
- 5.14 At this stage in the proceedings, the meeting was re-opened to the public and

press and attendees.

- 5.15 RESOLVED: That, following consideration of the information contained in the submitted report and the representations made, the applications for a Static and Football Street Trading Consent to trade outside at the B&Q Car Park, Queens Road, Sheffield (Reference No. 59/13) be granted.

(The full reasons for the Sub-Committee's decision and the operating conditions will be included in the written Notice of Determination.)

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SHEFFIELD CITY COUNCIL

Licensing Committee

Meeting held 10 October 2013

PRESENT: Councillors Nikki Bond, Jillian Creasy, Roger Davison, Neale Gibson, Adam Hurst, George Lindars-Hammond, Denise Reaney, Clive Skelton (Deputy Chair), Stuart Wattam, Cliff Woodcraft and Joyce Wright

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1. CHAIR OF THE COMMITTEE

1.1 RESOLVED: That (a) with effect from 1st October, 2013, Councillor Clive Skelton be appointed Chair of the Committee for the remainder of the 2013/14 Municipal Year; and

(b) this Committee places on record its appreciation for the outstanding contribution made to the Licensing Committee by Councillor John Robson.

2. APOLOGIES FOR ABSENCE

2.1 An apology for absence was received from Councillor John Robson.

3. EXCLUSION OF PUBLIC AND PRESS

3.1 No items were identified where resolutions may be moved to exclude the public and press.

4. DECLARATIONS OF INTEREST

4.1 There were no declarations of interest.

5. MINUTES OF PREVIOUS MEETINGS

5.1 The minutes of the meetings of the Licensing Sub-Committee held on 12th, 15th, 19th, 20th and 30th August and 2nd and 3rd September, 2013 were approved as correct records, subject to the amendment of the minutes of the meeting held on 20th August by the deletion of the question marks after the words "Pub Operator" in paragraph 4.2.

6. LICENSING ACT 2003 - HOME OFFICE CONSULTATION - PERSONAL LICENCES

6.1 The Chief Licensing Officer submitted a report to (a) inform Members of a consultation paper that had been released by the Home Office proposing to abolish personal alcohol licences, (b) consult with Members regarding the new proposals outlined in the consultation paper and (c) obtain comments for the Licensing Authority's formal response to the consultation.

6.2 Claire Bower, Principal Licensing Officer, stated that the Home Office objective is

to reduce regulation on businesses and cut “red tape” surrounding the sale of alcohol. She stated that, in the opinion of officers, the proposals in the consultation would undermine some of the priorities, values and outcomes in the “Standing Up for Sheffield: Corporate Plan 2011-14”. Claire Bower added that the current system for personal licences provides individuals with training in licensing legislation, thereby improving employment chances and providing a higher skilled workforce in the licensed sector and also a higher degree of social responsibility, thereby, in turn, improving safety in the community.

- 6.3 In response to questions from Members of the Committee, Claire Bower and Matt Proctor, Senior Licensing Officer, gave instances of recent personal licence applications that had been heard and the reasons why they felt the current legislation should be widened, and also that research carried out had not found anyone involved in the licensed sector to be in favour of the proposed abolition of Personal Licences.
- 6.4 RESOLVED: That having considered the details of the consultation document on proposals to abolish personal alcohol licences, the draft response to the Government consultation, appended to the report now submitted, be approved.



SHEFFIELD CITY COUNCIL LICENSING COMMITTEE

Report of: Chief Licensing Officer

Date: 14th November 2013

Subject: Private Hire and Hackney Carriage Licensing

Author of Report: Steven Lonnia Chief Licensing Officer,
Business and Strategy, Place Portfolio

Summary: Report – Driver & Applicant Referrals Policy – Review

Category of Report: OPEN

Hackney Carriage and Private Hire Drivers Licensing

Driver's referrals policy. - Warnings and Prosecutions.

1.0 Purpose

1.1 The current drivers and applicants referral to Licensing Committee Policy was reviewed by the Licensing Committee in September 2013. Although the Committee agreed in principal to a small change in the current policy (copy attached at appendix 1). The Committee wished to have further information on the offences and reasons that relate to the issue of warnings, cautions and the prosecution of offenders.

1.2 This report outlines the areas within Taxi and Private Hire Licensing a Local Council can take enforcement action against not only licensed holders but unlicensed vehicles and drivers.

2.0 Current Position

2.1 The current referrals criteria are attached to this report as appendix 1.

2.2 The setting out of referrals allows for applicants to understand the reason for referral and then make a considered decision on whether to make an application.

3.0 The Legal Situation – What offences can a Council Prosecute for?

3.1 The main legislation that covers both hackney carriages vehicles, private hire vehicles and their drivers and operators. Is Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

3.2 Attached at appendix 2 of this report is a list of the “common” offences that officers may detect and which are covered by the above two acts and other legislation.

3.3 Where an offence could be prosecuted the driver /licensee could be cautioned or issued a warning. Except in the case of illegal plying for hire where officers are under instruction to prosecute every case where evidence shows the offence.

3.4 There is also in the case of Hackney Carriages and their drivers and owners, the Local Sheffield City Council Byelaws, a copy of these are attached as appendix 3 of this report. These have powers of enforcement and licenses can be prosecuted under byelaws as well.

3.5 There are many other Laws and Regulations that impinge on the use of a vehicle on the roads of Great Britain and any such breach of the law or regulation the Council can prosecute for the offences if they deem it in the public interest to do so. The prime example being Road Traffic Acts and regulations that vehicle owners and drivers have to adhere to.

For Example a vehicle that was being used whilst not road worthy, (tyre tread below legal limit) the Council through its Authorised Officers would have the power to prosecute for that offence.

3.6 Further to this the Local Government Act 1972 Section 222 it states

222 Power of local authorities to prosecute or defend legal proceedings.

(1) Where a local authority consider it expedient for the promotion or protection of the interests of the inhabitants of their area— .

(a) They may prosecute or defend or appear in any legal proceedings and, in the case of civil proceedings, may institute them in their own name, and .

(b) They may, in their own name, make representations in the interests of the inhabitants at any public inquiry held by or on behalf of any Minister or public body under any enactment. .

(2) In this section “local authority” includes the Common Council [F1 and the London Fire and Emergency Planning Authority].

This piece of legislation literally means that a Council has the power to prosecute a person or persons for any offences that the Council deemed to have been committed under any piece of legislation.

But we have to way this against the main area of the statement which is clear that to do so was in the interest of the inhabitants of the area.

3.7 Under the above act the Council has in the past have successfully prosecuted drivers for no insurance. This is mainly used cases of illegal plying for hire.

4. Consultation

4.1 The trades attended the original Policy review and contributed to the debate of the issues around the report.

4.2 This particular report was circulated around representatives of the trades in October 2013.

4.3 Trade Associations have been invited to attend this meeting and advised that, subject to the consent of the chair, they may address the meeting.

4.4 Any written representations received will be made available at the meeting.

5.0 Prosecutions, Cautions and Warnings by Officer's.

5.1 The current situation is that all cases are judged on their own merits, apart from cases where the Council, through its licensing committee have a Policy on the actions required of Officers. This is the case with illegal plying for hire. The Council Policy (currently) id to prosecute all cases where there is enough evidence and the Officers are satisfied that an offence has been committed and can be proved.

5.2 Prosecutions are deemed a last resort by officers, but will be taken where in the opinion of the Chief Licensing Officer, public safety has been compromised, the offender has shown little regard for authority or has committed the same or similar offences in the past especially if they have received warnings or cautions.

- 5.3 Official Cautions can only be issued where there is enough evidence that if a caution was declined a prosecution file could be submitted for the offence to which the Caution refers.
- 5.4 Warnings are issued for a multitude of misdemeanours and also offences such as parking offences, not wearing of badge, failure to display licence plate correctly, failure to respond to notices, and where complaints have been received investigated and in the opinion of the investigating officer the complaint has been upheld.
- 5.5 Officers have issued 130 warnings which came after enforcement checks. The majority of the warnings issued were for areas of concern, such as
- Vehicle issues.
 - Driver issues.
 - Parking issues.

5.6 Vehicle issues;

Warnings can/will be issued on second and third sightings of vehicles with defects such as not displaying the correct signage, lights not working and other such instances. These warnings will be issued to the vehicle licensee.

Defect letters and notices are sent out weekly for vehicles seen with defects by officers on enforcement which they were unable to approach or stop.

Other vehicle issues on inspection are normally dealt with by way of defect notice handed to the driver of the vehicle at the time of inspections. It may be that on return to the licensing office, it is noted that the defect notice issued may have been for a defect that has been seen before and not rectified, this may lead to the Licensee receiving a warning letter at a later stage.

Serious defects would result in immediate suspension of the vehicle licence.

5.7 Driver issues;

Most of the driver issues relate to not wearing of identification, this also covers the parking problems as well and road traffic offences such, as using a mobile phone, illegal right or left turns. This is a driver issue as the driver is at fault and the driver is not necessarily the vehicle licence holder for that vehicle. Letters to the licensee are sent for them to admit the offence or to name the driver at the time, and then the warning is sent to the named driver.

5.8 Parking issues;

Mainly these are because of the early and over ranking of hackney carriages, illegal parking of both types of vehicle, which often obstructs the highway. Some can be parking of a private hire vehicle in the vicinity of a public resort, which may be construed as illegal plying for hire.

5.9 Complaints;

This year have resulted in 12 warning's been issued to licensees. Total number of complaints received is 108 from 1st Jan to October 21st 2013. So just over 11% of complaints received result in an official warning being issued to the licensee.

Some complaints will have resulted in the licensee being referred to the Licensing Sub Committee and others will have received letters reminding them of their responsibilities as a licence holder.

5.10 In all cases apart from the complaints the warnings have been issued where offences under different many areas of legislation have been committed by the driver.

Many of the warnings issued could have been built into a case that would have been referred to the Courts, it's currently the ethos of the licensing service to try and deal with these misdemeanours at the lowest level, which in most cases is an end to the problem.

In other cases of licensees who repeat the offence or fail to resolve the defects then further warnings are issued and then ultimately they are referred to the Licensing Sub Committee to defend their actions. Currently when and after how many warnings they are referred is down to the discretion of officers, but the rule of thumb currently is 3 warnings for any misdemeanour would lead to a case review by a senior officer and it is more likely than not that the licensee would be referred at that stage.

The Licensing Sub Committee has the powers to suspend or revoke licenses of people it deems have below the standards expected or have repeatedly offended and they are no longer deemed fit and proper to hold a licence.

6.0 Penalty Points Systems

6.1 Many Local Authorities use a penalty point system when dealing with driver's and operators. The system is similar to that which is used on normal driving licenses, through the DVLA.

6.2 The system has to be robust and must not fetter the discretion of the Council in anyway when dealing with the application, renewal or review process.

6.3 Systems work on the grounds where certain misdemeanours, offences and breach of conditions would result in the driver / operator receiving a set amount of points on their records and when they met the ceiling of points they would then be referred to the licensing committee for review of that particular licence.

6.4 The amount of points per offence would have to be publicised and agreed at Committee level.

6.5 An example of such schemes and the legal requirements of any such schemes is attached at appendix 3.

6.6 If members consider that a penalty points system may be a way forward and want a more detailed investigation in to this and a report drafting regarding a Sheffield scheme then it should instruct the Chief Licensing Officer as necessary and give a timescale for a future report to be submitted (for example: March 2014).

7.0 Financial Implications

- 7.1 There are no financial implications to the Council or to the current taxi licensing budget.
- 7.2 There may be some financial impact to consider if a process is considered that adversely affected (increased) the number of licensing committees that were held.
- 7.3 Prosecutions have a financial impact and cost the Council Licensing Service money. The "costs" recovered in successful convictions never cover the actual cost of the procedure for the Council although they are asked for at each trial.

8.0 Options

- 8.1 The Committee consider the report and any representations made.
- 8.2 The Committee take no action and consider the current referrals policy as adequate without any changes.
- 8.3 The Committee consider the report and decide on a change to the Policy giving details of the changes to be made.

9.0 Recommendations

- 9.1 The Committee consider this report and any representations made to it.

Stephen Lonnia
Chief Licensing Officer and Head of Licensing
November 2013

APPENDIX 1

Referral of Drivers or Applicants to the Licensing Board

The Licensing Authority (Sheffield City Council) has a duty under the Legislation (Local Government {Miscellaneous Provisions} Act 1976) to grant drivers licences **ONLY if it is satisfied that the person is a fit and proper person to hold a licence**. This means that it is up to you to show to the Council that you are a fit and proper person to hold a licence and not for the Council to show that you are not.

In most instances Licensing Officers are able to grant licences but in some cases the application/licence must be referred to the Licensing Sub Committee for it to make a decision about your suitability. Set out below are the circumstances which will result in an application for or your current licence being referred to the Licensing Sub Committee for decision.

Where the following offences/penalties are disclosed:-

- i) Any term of imprisonment or custody.

Except where in exceptional circumstances and in the view of the Chief Licensing Officer (Taxi Licensing) the age and nature of the offence(s) are such that a referral to the Board is not merited;

- ii) Any conviction for violence resulting in a custodial sentence, or violence offences which the Chief Licensing Officer considers to be serious nature.
- iii) Any conviction, for dishonesty resulting in a custodial sentence, or dishonesty offences which the Chief Licensing Officer considers to be serious nature.
- iv) Any conviction for sex offences resulting in a custodial sentence, or sex offences which the Chief Licensing Officer considers to be serious nature.
- v) Any conviction for any drugs offences or related offences to the supply of drugs resulting in a custodial sentence or drug related offences which the Chief Licensing Officer considers to be serious nature.
- vi) Any caution or fixed penalty notice for any drugs offences or related offences to the supply of drugs.
- vii) Any caution, warning, anti social behaviour order (ASBO), fixed penalty (non driving) or Accepted Behaviour Contract (ABC) which the Chief Licensing Officer considers to be serious nature.
- viii) Any of the following driving offences;-

Drive or attempting to drive with alcohol level above the limit. (DR10)

Driving or attempting to drive while unfit through drink. (DR20)

Driving or attempting to drive then failing to supply a specimen for analysis. (DR30)

In charge of a vehicle while alcohol above limit. (DR40)

In charge of a vehicle while unfit through drink. (DR50)

Failure to provide a specimen for analysis or breath test. (DR60 & DR70)

- Driving or attempting to drive when unfit through drugs. (DR80)
- viii) Continued.
- Driving or attempting to drive when unfit through drugs (DR90)
- Driving or attempting to drive whilst disqualified (BA10 & BA30)
- Causing Death by dangerous Driving (DD80)
- Manslaughter or culpable homicide while driving a vehicle (DD60)
- Dangerous Driving (DD40)
- Driving without due care and attention (CD10, CD20 & CD30)
- Causing death by careless driving (CD40, CD50, CD60 & CD70)
- Using a vehicle uninsured (IN10)
- ix) Several motoring offences over a period of time particularly where the penalty points awarded could have resulted in disqualification and/or the applicant has claimed undue hardship to avoid disqualification.
- x) Accumulated 9 or more penalty points or committed/been convicted of three or more motoring offences in a short period of time.
- xi) Accumulated 9 or more penalty points in 18 months or during the term of the last licence which ever is the longest.
- xii) Have accumulated 12 or more penalty points or committed/ been convicted of four or more motoring offences in a 3 year period or the last two terms of licence, which ever is the lesser).
- xiii) Any period of disqualification from driving.
- xiv) warnings issued for failure to comply with private hire and taxi legislation which the Chief Licensing Officer considers to be of a serious nature.
- xv) Any previous refusal/revocation of a licence by any Licensing Authority.
- xvi) Any other case which, at the discretion of the Chief Licensing Officer is regarded as appropriate for referral to the Board.

LICENSING BOARD DECISION 12th September 2013

APPENDIX 2

HACKNEY CARRIAGE OFFENCES

(1) S40 TPCA 1847:- Not signing licence requisition, or naming non proprietor.

Burden of Proof:- wilfully.

Points to Prove:- Application not signed.
Person named as proprietor has no knowledge.

(2) S44 TPCA 1847:- Proprietor of HCV fail to notify change of address or produce licence for endorsement.

Burden of Proof:- neglect or wilful omission.

Points to Prove:- Length of time at new address.
Licence not endorsed after offence .

(3) S45 TPCA 1847:- Ply for hire in a vehicle not licensed as HCV.

Burden of Proof:- permitting, driving, standing plying.

Points to Prove:- Vehicle is not a hackney carriage.
Evidence of plying.

(4) S47 TPCA 1847. Drive Hackney Carriage without a licence.

Burden of Proof:- non stated, but apply knowingly.

Points to prove:- Vehicle is licensed as Hackney Carriage.
Driving.

(5) S47 TPCA 1847:- Proprietor employ unlicensed driver.

Burden of Proof:- non stated, but consider knowingly.

Points to Prove:- Vehicle is licensed as hcv. driver is employed

(6) S48 TPCA 1847:- Proprietor fail to retain licence of driver, or produce to court on complaint.

Burden of Proof:- refusal or neglect.

Points to Prove:- Has request been made for licence.
Does proprietor know driver is attending court.

(7) S52 TPCA 1847. Drive HCV plate incorrectly displayed, or refuse to carry prescribed number of passengers, or drive at direction of hirer.

Burden of Proof:- non stated, consider without reasonable excuse

Points to prove:- Number of persons to be carried is displayed
Refusal.

(8) S52 TPCA 1847:- Proprietor of HCV allow vehicle to be used with plate incorrectly displayed.

Burden of Proof:- non stated, consider without reasonable cause.

Points to Prove:- Vehicle is licensed HCV.
Plate not displayed as required by S51 TPCA.

(9) S53 TPCA 1847:- Driver at rank refuse or neglect to drive to any place within prescribed distance.

Burden of Proof:- without reasonable excuse.

Points to prove:- Vehicle was on rank
Place was within prescribed distance.

(10) S54 TPCA 1847:- Demand more than agreed fare.

Burden of Proof:- non stated.

Points to prove:- Was agreement made for lower fare prior to hire.

(11) S55 TPCA 1847:- Demand more fare than maximum fare set by council.

Burden of Proof:- non stated.

Points to Prove:- Time/distance in relation to metered fare

(12) S56 TPCA 1847:- Carry passenger less distance than entitled to for sum agreed upon.

Burden of Proof:- non stated.

Points to Prove:- Distance carried was less than agreed with driver/proprietor.

(13) S57 TPCA 1847:- Driver refuse to wait or return deposit.

Burden of Proof:- non stated.

Points to Prove:- Hirer had not terminated journey.
Vehicle had driven away before time of waiting or
deposit had elapsed.

(14) S59 TPCA 1874:- Carry passenger without consent of hirer.

Burden of Proof:- permitting. Consent.

Points to prove:- Consent is positive and not implied.

(15) S60 TPCA 1847:- Driver not authorised by proprietor, or person
suffers another person to act as driver.

Burden of Proof:- suffers, authorised.

Points to Prove:- Driving.

(16) S61 TPCA 1847:- Intoxicated or wanton and furious driving.

Burden of Proof:- wanton, furious, wilful misconduct.

Points to prove:- Is driver intoxicated.
Conduct of driving.
Conduct of behaviour.
Any injury or damage caused.

(17) S62 TPCA 1847:- Driver leaving vehicle unattended in public resort.

Burden of Proof:- non stated.

Points to prove:- Driver was not in physical control of the vehicle.

(18) S64 TPCA 1847:- Driver obstructing other drivers.

**Burden of proof:- non stated, consider without reasonable excuse,
wilful.**

Points to Prove:- Was there an obstruction.

(19) S49 LGMPA 1976:- Proprietor fail to notify council transfer of ownership.

Burden of Proof:- without reasonable excuse.

Points to Prove:- Notice not in writing.
Fourteen days have past since transfer date.
Name and address of new licensee not specified.

(20) S50(1) LGMPA 1976:-Proprietor fail to present vehicle for test.

Burden of Proof:- council has reasonably required vehicle test.

Points to Prove:- Location of test is within council area.
Time and date of test is reasonable.
Notice has been sent for test.

(21) S50(3) LGMPA 1976:- Proprietor of HCV fail to report accident as soon as practicable, or in any case within 72 hours.

Burden of Proof:- without reasonable excuse.

Points to Prove:- As soon as practicable.
Period of time after 72 hours.
Has accident caused damage that materially effects
The safety, performance, or appearance of vehicle.
Or comfort or convenience of persons carried.

(22) S50(4) LGMPA 1976:- HCV proprietor fail to produce vehicle licence, or certificate of insurance on request of authorised officer.

Burden of Proof:- without reasonable excuse contravenes.

Points to Prove:- Any requirement was properly made.
Request must be from authorised officer.

(23) S53(3)(a) LGMPA 1976:- HCV driver fail to produce driving licence within 5 days of request by authorised officer,

Burden of Proof:- without reasonable excuse contravenes.

Points to Prove:- Production must forthwith, or at council office within 5 days commencing the day after the request
Request is from authorised officer..

(24) S57(2) LGMPA 1976:- Applicant for drivers licence makes false statement.

Burden of Proof:- knowingly, recklessly, omits.

Points to Prove:- False statement.

(25) S58(1)(a)or(b) LGMPA 1976:- Proprietor of HCV fail to return plate.

Burden of Proof:- without reasonable excuse.

Points to Prove:- Vehicle licence is, expired, revoked, or suspended under S68 of this act.
Seven days have past since notice served.

(26) S73 LGMPA 1976:- Proprietor of HCV obstruct authorised officer.

Burden of Proof:- wilfully, reasonable excuse, reasonable cause, Reasonably require, knows to be false.

Points to Prove:- Officer acting in pursuance of act.
Any requirement was properly made.

(27) S66 LGMPA 1976:- Driver require greater fare outside district.

Burden of Proof:- knowingly contravenes.

Points to Prove:- End of journey is outside district.
No rate of fare was agreed before hiring

(28) S67 LGMPA 1976:- Driver or proprietor of HCV charge more than rate of fares or charges, when under contract as PHV.

Burden of Proof:- knowingly contravenes.

Points to prove:- Vehicle under or purported under contract as PHV.
Fare charged is greater than metered fare.

(29) S69 LGMPA 1976:- Prolong passengers journey.

Burden of proof:- without reasonable cause, unnecessarily prolong

Points to prove:- Distance and/or time involved.

(30) S72 LGMPA 1976:- Offence due to fault of other person.

Burden of Proof:- any act or default.

Points to Prove:- An offence has been committed.
The offence would not have occurred, without the actions of another person.

(31) S73 LGMPA 1976:- Driver obstruct authorised officer.

Burden of Proof:- wilfully, reasonable excuse, reasonable cause, reasonably require, knows to be false.

Points to Prove:- Officer acting in pursuance of act.
Any requirement was properly made.

(32) Byelaw 9. Drive HCV not wearing badge.

Burden of Proof:- non stated, apply without reasonable excuse.

Points to prove:- Vehicle is HCV.
Driving .
No badge.
Badge worn but not plainly and distinctly visible.

(33) Byelaw offences:- Fail to comply with byelaws

Burden of Proof:- includes wilfully, negligently, cause, suffer, permit, sufficient cause, reasonable precautions, express consent, importune, reasonable assistance, reasonably practicable, tamper,

(34) Various legislation:- Proprietor of HCV fail to respond to notices.

Burden of Proof:- includes without reasonable cause, without reasonable excuse, reasonably require, knows to be false.

Points to Prove:- Any requirement was properly made under the act.

(35) Various legislation:- Driver fail to respond to notices.

Burden of Proof:- Includes without reasonable cause, without reasonable excuse, reasonably required, knows to be false.

Points to prove:- Any requirement was properly made under the act.

PRIVATE HIRE OFFENCES

- (1) S45 TPCA 1847. Ply for hire in vehicle not a hackney carriage.

BURDEN OF PROOF:- *permitting, driving, standing, or plying.*

POINTS TO PROVE:- Vehicle is not hackney carriage.
Evidence of plying incident.

- (2) S46 (1)(a) LGMPA 1976:- Any person use a vehicle as a phv without a vehicle licence.

BURDEN OF PROOF:- *knowingly contravenes.*

POINTS TO PROVE:- Use that vehicle is being put to.

- (3) S46 (1) (b) LGMPA 1976. Drive a private hire vehicle without a Licence.

BURDEN OF PROOF:- *knowingly contravenes.*

POINTS TO PROVE:- Person was driving.
Vehicle is private hire.
Location is a controlled district.
Person does not hold licence.

- (4) S46 (1)(c) LGMPA 1976:- proprietor of phv employ unlicensed driver.

BURDEN OF PROOF:- *knowingly contravenes.*

POINTS TO PROVE:- Vehicle is licensed.
Driver is not licensed.
Employ.

- (5) S46 (1)(d) LGMPA 1976:- Take bookings for phv without operators Licence.

BURDEN OF PROOF:- *knowingly contravenes.*

POINTS TO PROVE:- Vehicle is licensed.
Booking not contract work.
No current operator licence.

- (6) S46 (1)(e)(i) LGMPA 1976:- phv operator to operate a vehicle as phv that is not licensed .

BURDEN OF PROOF:- *knowingly contravenes.*

POINTS TO PROVE:- Vehicle not licensed.
Vehicle used / caused to be used in connection company.

(7) S 46 (1)(e)(ii) LGMPA 1976:- Operator to operate phv with unlicensed driver.

BURDEN OF PROOF:- *knowingly contravenes.*

POINTS TO PROVE:- Vehicle is phv.
Driver is not licensed.
Operator is using or causing vehicle to be used.

(8) S48 (6) LGMPA 1976. Drive private hire vehicle with plate incorrectly displayed.

BURDEN OF PROOF:- *without reasonable excuse.*

POINTS TO PROVE:- Person was driving.
Vehicle is private hire.
Condition attached to licence.
Controlled district.

(9) S48(6) LGMPA 1976:- Proprietor allow phv to be used with the plate incorrectly displayed.

BURDEN OF PROOF:- *without reasonable excuse.*

POINTS TO PROVE:- Use or permit.
Controlled district.
Condition attached to licence.

(10) S49 LGMPA 1976:- Proprietor fail to give notice of transfer of vehicle licence.

BURDEN OF PROOF:- *without reasonable excuse.*

POINTS TO PROVE:- Notice is not in writing.
Fourteen days has past since transfer date.
Name and address of new licensee is **not** specified.

(11) S50 (1) LGMPA 1976:- Proprietor of phv fail to present vehicle for test.

BURDEN OF PROOF:- *without reasonable excuse.*

POINTS TO PROVE:- Notice issued.
Did not present vehicle within period or place as required.

(12) S50(3) LGMPA 1976:- Proprietor fail to report accident as soon as practicable, or in any case within 72 hours.

BURDEN OF PROOF:- *without reasonable excuse.*

POINTS TO PROVE:- As soon as practicable.
Period of time after 72 hours.
Has accident caused damage that materially
Effects the safety, performance, or appearance
of vehicle or comfort or convenience of persons
carried.

(13) S50(4) LGMPA 1976:- Proprietor fail to produce vehicle licence, and certificate of insurance on request of authorised officer.

BURDEN OF PROOF:- *without reasonable excuse.*

POINTS TO PROVE:- Request is from authorised officer.
Failed to produce.

(14) S53(3)(a) LGMPA 1976:- Driver fail to produce on request phv drivers licence.

BURDEN OF PROOF:- *without reasonable excuse.*

POINTS TO PROVE:- Not produced forthwith on request, or within 5 days, commencing the day after request at the council office.
Request is from authorised officer.

(15) S54(2)(a) LGMPA 1976. Drive private hire vehicle not wearing badge.

BURDEN OF PROOF:- *without reasonable excuse.*

POINTS TO PROVE:- Person was driving.
Vehicle is private hire.
Badge not worn, or plainly and distinctly visible.

(16) S56 LGMPA 1976:- Operator fail to comply with conditions.

BURDEN OF PROOF:- *without reasonable excuse.*

POINTS TO PROVE:- Condition that has been contravened.

(17) S56(3) LGMPA 1976:- Operator fail to produce records on request.

BURDEN OF PROOF:- *without reasonable cause.*

POINTS TO PROVE:- Request from authorised officer.
Fail to produce.

(18) S56(4) LGMPA 1976:- Operator fail to produce operators licence on request.

BURDEN OF PROOF:- *without reasonable excuse.*

POINTS TO PROVE:- Request from authorised officer.
Failed to produce licence.

(19) S(58)(1)(a) or (b) LGMPA 1976:- Proprietor fail to comply with terms of notice to return licence plate.

BURDEN OF PROOF:- *without reasonable excuse.*

POINTS TO PROVE:- 7 days have past since service of notice.
Licence plate has not been returned.

(20) VARIOUS ACTS:- Driver of phv fail to respond to notices.

BURDEN OF PROOF:- Includes *without reasonable cause, without reasonable excuse, reasonably required, knows to be false.*

POINTS TO PROVE:- Any requirement was properly made under the act.

(21) S61(2)(a) LGMPA 1976:- Driver fail to return licence.

BURDEN OF PROOF:- *without reasonable cause.*

POINTS TO PROVE:- No appeal has been lodged.
Notice of grounds for suspension, revocation, refusal of licence have been given to driver within 14 days of decision.

(22) S64 LGMPA 1976:- Prohibition of other vehicles on hackney stands.

BURDEN OF PROOF:- *without reasonable excuse.*

POINTS TO PROVE:- cause or permit any vehicle other than hcv to wait on rank during appointed time.
Is rank clearly marked and legally appointed.

(23) S69 LGMPA 1976:- Prolong passengers journey.

BURDEN OF PROOF:- *without reasonable cause. Unnecessarily prolong.*

POINTS TO PROVE:- distance and/or time involved.

(24) S72 LGMPA 1976:- Offence due to fault of other person.

BURDEN OF PROOF:- *offence committed due to act or default of another.*

POINTS TO PROVE:- An offence has been committed under the act.
The offence has only been committed due to the act or default of another.
Nb. Even if no action is taken against offender, the other person (act or defaulter) can still be liable for the offence (same charge, same penalty)

(25) S73 LGMPA 1976:- Any person obstruct authorised officer.

BURDEN OF PROOF:- *wilfully, reasonable excuse, reasonable cause, reasonably require, knows to be false.*

POINTS TO PROVE:- Officer acting in pursuance of act.
Any requirement was properly made.

(26) **VARIOUS ACTS:-** Proprietor of phv fail to respond to notices.

BURDEN OF PROOF:- *includes without reasonable cause, without reasonable excuse, reasonably required, knows to be false.*

POINTS TO PROVE:- Any requirement was properly made under the act.

APPENDIX 3

PENALTY POINTS SCHEMES

- Penalty points schemes work on a system similar to that of the DVLA where drivers, operators and proprietors receive points on their licensing record, when they have committed offences, breach of conditions, and or misdemeanours.
- Points issued within a period of time then tot up and a ceiling previously stated and agreed would result in the person or persons being referred to the Licensing Committee to review their licence at that time.
- The Legal Situation with such schemes?
- A recent High Court ruling has assisted in the clarification on how such schemes can be run and what the legal requirements.
- A High Court Judgement – R(app Singh) v Cardiff City Council (2012) EWHC.
- In this case paragraph 65 is the part of the decision that concerns the legalities of a Points system being adopted by a Local Authority.
- Mr Justice Singh said
 - “In my view, there is nothing wrong in principle with the defendant authority such as at present, adopting the policy, which seeks, both in fairness to the driver potentially affected and also protect the public interest, to have as it were, a staged process by which the cumulative effect of incidents of misconduct may well lead ultimately to the conclusion that in the judgement of the local authority a person is not a proper person to continue to enjoy the relevant licence”.
- What let Cardiff down in this situation is the that they had a hard and fast rule that stated a driver’s licence would be revoked when they had amassed a certain number of points in certain period of time.
- What needs to be part of the system is that when the ceiling is reached then that would activate a referral to the Licensing Committee would sit then in judgement on the continued fit and properness of the person, and each case in front of them would be dealt on the individual merits of each case.
- Practicalities and procedures of a penalty point system
- On detection of an incident misconduct or breach of conditions Officers would issue a ticket/defect notice or letter to the offender.
- There would be a list of offences, breach of conditions and the list would detail the amount of points that the offence or breach would attract.
- These need to be straight forward and not subjective such as 1 to 3 points.

- Having subjective or sliding scales leaves the process open to subjective issues and could lead to confusion of drivers, and lead to officers being subjected to claims of bias or unfairness.
- It may be that the same offence or breach may have a sliding scale but only on the grounds of multiple incidents of the same offence or breach. In simple terms a first offence may attract (if agreed) 1pt but a second offence for the same thing may attract 3 pts.
- What needs also to be in the document is the drivers/licensees right to appeal the points awarded and this would be to the licensing committee, this is then where they could view the case and facts and take the Drivers representation into account and make a decision.
- On this it can be stated that if the driver appeals and the opinion of the Licensing Committee that it was a frivolous appeal in any way they could award higher points than the original offence would have attracted. As before the driver may appeal and win the points would be removed from record. If the appeal is lost although not frivolous the points remain, if deemed an inappropriate appeal then the committee may wish to give a higher tariff such as 3pts rather than the 1pt already awarded.
- Procedures need to be transparent and set out clear and concisely to applications and renewal applicants so that driver and licensees are fully aware of the scheme prior to being licensed.
- Signing of the application for a licence means then that they understand and have agreed to abide by the licensing conditions and procedures, and are aware of the penalty points procedures and the consequences of being issued with points.
- There should be an end date as to the effect of the of the points and it is usual to follow the DVLA example of having the totting up procedure over 3 year period. This would tally up nicely with the current licence length in Sheffield of 18 months per licence meaning the totting up procedure would carry over a 2 licence issue period.
- Below is some examples of the current penalty points systems in place around the Country you will see that there are many and varied ideas of what points are given and for what sort of offences and misconduct.
- It also shows that some Councils have relatively subjective issues that are deemed to acquire penalty points. Some reasons are very loosely written "bald" tyre is one area that is subjective and anything like that should have the proper legal statement, from the appropriate act. For example in Sheffield you may state that it would be 3 pts per tyre where the tread on at least 1/3 rd of the whole tyre was below the legal minimum standard of 1.6mm and you may add that it would be 1pt per tyre where the tread fell below the current Sheffield City Council testing requirement of 2mm.
- Being ambiguous in the reasons for issues leaves the officer and the applicant unsure on what points to award and could lead to confusion and mistakes.

Points and Offences.

- I have set out below some of the current schemes around the country and what sort of offences attracts what number of points.

Salford City Council

	Code	Points
Hackney Carriage Licensee fails to notify change of address in writing to the Local Authority. Section 44 Town Police Clause Act 1847	H1	2
Hackney Carriage Driver refusing to carry prescribed number of passengers. Section 52 Town Police Clause Act 1847	H2	2
Hackney Carriage Driver refusing to drive. Contrary to Section 53 Town Police Clauses Act 1847	H3	3
Hackney Carriage Driver permitting persons to be carried without the consent of hirer. Contrary to Section 88 Town and Police Clauses Act 1847	H4	3
Leaving a Hackney Carriage Vehicle unattended in public place. Contrary to Section 62 Town and Police Clauses Act 1847	H5	2
Leaving Hackney Carriage Vehicle obstructing other drivers on the rank. Contrary to Section 64 Town and Police Clauses Act 1847	H6	3
Hackney Carriage Driver fails to produce Hackney Carriage drivers licence contrary to Section 53 Local Government (Miscellaneous Provisions) Act 1976	H7	2
Hackney Carriage Driver fails to wear drivers badge. Contrary to Section 54(2)(b) Local Government (Miscellaneous Provisions) Act 1976	H8	3
Person causing a vehicle other than a Hackney Carriage to stand on a taxi rank. Contrary to Section 64 and 76 Local Government (Miscellaneous Provisions) Act 1976	H9	3

Private Hire Vehicle / Private Hire Driver Breach of Conditions

	Code	Points
Failure to provide assistance with passengers luggage	P1	2
Failure to be clean and respectable in dress and person	P2	2
Failure to ensure passenger safety	P3	3
Smoking, drinking or eating without the express permission of hirer	P4	2
Playing the radio or other sound reproducing instruments without permission of hirer	P5	2
Proprietor displaying an unauthorised sign i.e. commercial advert on vehicle	P6	2
Failure to display "Insurance invalid without prior booking with operator" signs on vehicle	P7	3
Failure to display operators private hire signs	P8	3
Causing excessive noise from any radio or sound producing instrument which annoys anyone in or outside the vehicle	P9	2
Failure to carry assistance dog without exemption certificate	P10	3
Failure to check vehicle for lost property after each fare	P11	2
Failure to report property found to the Local Authority as soon as possible or within 24 hours of finding	P12	2
Carrying a pet animal other than an assistance dog	P13	2
Failure to attend a time for pre-arranged booking without sufficient cause	P14	2
Failure to notify The Authority change of address in writing within 7 days	P15	2
Failure to notify The Authority any conviction in writing immediately once the conviction has been imposed	P16	3
Driving a licensed vehicle which is not clean and tidy inside and out	P17	2
Driving a licensed vehicle which is not properly maintained	P18	3
Failure to display licence plate or plate not in correct position	P19	3
Failure to carry an authorised fire extinguisher	P20	2
Failure to display operators fare table in vehicle	P21	2
Failure to carry conditions in vehicle	P22	2
Failure to behave in a civil and orderly manner	P23	3
Carrying a child under the age of 10 in the front of the vehicle	P24	3
Driver of Private Hire Vehicle demanding fare in excess of that shown on meter (if fitted)	P25	3
Sounding vehicles horn or using audible to attract customers attention day or night	P26	3
Failure to report to The Authority damage to Private Hire Vehicle caused by a road accident or other means affecting safety, performance or appearance as soon as possible or within 72 hours of occurrence	P27	3
Failure to notify The Authority the transfer of Private Hire Vehicle Licence within 14 days of such transfer.	P28	3
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Private Hire Driver fails to produce Insurance within 7 days of request.	P29	3
Private Hire Driver Fail to display Private Hire drivers identity badge as prescribed by Council	P30	3

Hackney Vehicle Licence Conditions & Byelaws

	Code	Points
Driving a licensed vehicle that is not clean and tidy inside and out	HV10	2
Driving a licensed vehicle not properly maintained	HV11	3
Failure to display internal licence number	HV12	3
Failure to display external plates in the correct position or a dirty condition	HV13	3
Display of an unauthorised sign i.e. commercial advert	HV14	2
Failure to carry an authorised fire extinguisher	HV15	3
Failure to proceed to the nearest Hackney Carriage stand when not hired (contrary to Byelaws)	HV16	2
Failure to proceed to the nearest Hackney Carriage stand when stand is full (contrary to byelaws)	H17	2
Failure to drive to rear of the last Hackney Carriage Vehicle on the stand	H18	2
Calling out or importuning persons to use the Hackney Carriage when standing or plying for hire	H19	3
Failure to behave in a civil and orderly manner.	H20	3
Failure to attend for hiring without good reason	H21	2
Failure to assist with luggage to and from the vehicle or from any building, station or other place	H22	2
Failure to display fare chart in vehicle	H23	3
Failure to check vehicle for lost property after each fare	H24	2
Failure to carry and produce copy of byelaws	H25	2
Failure to report damage to Hackney Carriage Vehicle caused by a road accident or other means affecting safety, performance or appearance as soon as possible or within 72 hours of occurrence	H26	3
Failure to notify the Authority the transfer of Hackney Carriage Vehicle licence to another person within 14 days of such a transfer	H27	3
Hackney Carriage driver fail to carry Assistance Dog without exemption certificate	H28	3
Hackney Carriage driver fail to produce Insurance within 7 days of request.	H29	3

If 12 or more points are accrued in the 2-year period the offender will be requested to attend the Councils Licensing Regulatory Panel for interview.

WATFORD BOROUGH COUNCIL

CONTRAVENTION

- Adopting an unpleasant manner towards a passenger 3
- Verbal abuse towards any person whilst working as a driver 5 – 8
- Physical abuse towards any person 10 - 20
- Rudeness or failure to co-operate with Council officers 10 - 12
- Failing to ensure the safety of a passenger entering, alighting or conveyed in a vehicle 8 - 15
- Failing to provide a customer with reasonable assistance with their luggage 4 – 6
- Refusal to take a guide dog or other assistance dog 10 - 12
- Eating or drinking whilst conveying passengers 5 - 8
- Consuming alcohol whilst on duty 12
- Smoking in a licensed vehicle whilst conveying a passenger/waiting on a rank 5 - 8
- Failure to produce driver's badge on request to authorised officer 5 - 8
- Failing to use taximeter when hired as a hackney carriage 10 - 12
- Failing to agree a fare with passenger before starting journey in hackney carriage where taximeter is not being used 10 - 12
- Charging hackney carriage passenger more than the metered or agreed fare 10 - 12
- Failing to advise private hire passenger of estimated fare at start of journey 10 - 12
- Failure to display fare tariff within a hackney carriage vehicle 10 - 12
- Failure to notify the Council of a change in drivers' name or address 4
- Failure to notify the Council in writing of accidents to a vehicle 6
- Failure to advise council in writing of previous convictions when applying for licence or of other convictions within twenty-eight days 6
- Exterior/interior of vehicle not maintained in clean, sound and roadworthy condition 8 - 12
- Failing to ensure the display of the vehicle licence plate on the inside or the outside of the vehicle in the prescribed manner 10 – 12
- Failing to comply with byelaw 7 relating to the use of hackney carriage stands 6 - 8
- Failure to ensure the vehicle is equipped with a First Aid kit and readily-accessible fire extinguisher or failing to ensure either is properly secured 5
- Using a hand-held mobile telephone whilst driving 10
- Failure to wear a seatbelt when required 5
- Knowingly giving false information to passengers 3 - 8
- Failure to pick up pre-booked passengers 3 – 5

Failure to wear driver's badge or display large drivers' badge 6

Unspecified behaviour or misconduct 3 – 6

Factors to be taken into account when imposing penalty points include

- previous warnings
- previous track record
- mitigating circumstances
- gravity of the misconduct
- effect of incident on passengers, the public or other drivers
- any health and safety implications to passengers, public or drivers
- the potential for the incident to recur
- whether the licensee can still be considered to be a fit and proper person.

Drivers who have more than 20 points in any 12-month period may have their licence revoked.
(Penalty points for the same offence that are more than 12 months old may be taken into account where it is considered appropriate to do so).

Epsom & Ewell BC

Penalty Points System for Hackney Carriage and Private Hire Drivers, Vehicle Proprietors and Operators

The Scheme will cover all Drivers, Vehicle Proprietors and Private Hire Operators licensed by Epsom & Ewell Borough Council (The Authority). Where an offence or breach has been witnessed by an Authorised Officer and/or admitted, then Points will be endorsed against an individual or operator. When an individual has accrued 12 points within a two year rolling period, or commits the same offence/breach three times in a 12 month period then the individual will be referred to the Licensing Hearings Sub-Committee.

The Scheme will not bar the Authority from administering a caution or initiating legal proceedings following an offence or breach of condition or Byelaw, and Points may also be issued following a prosecution in appropriate cases. The Scheme shows the maximum points for the offence; the Grants and Licensing Team Leader will have discretion to decide on the points given based on circumstances. If more than one offence takes place the points will be added consecutively to the individual's file.	Points
Vehicle offences	
Failure to keep the interior and exterior in a clean and tidy condition, free from damage	6
Failure to display internal identification plate and/or securely fix the external identification plate to the rear of the vehicle as instructed by an Authorised Officer, or failure to keep exemption notice in vehicle.	6
Failure to carry a fully serviceable Fire Extinguisher	6
Failure to provide valid hire and reward insurance within a seven day period on request of the Authority.	8
Making a false statement or withholding information to obtain a licence	12
Failure to notify change of name, address, telephone number or Operator within seven days of change.	6
Plying for hire (*); Unlawful Touting or Soliciting Customers (#)	12
Refusal to take passenger without good cause	4
Charging more than the metered fare	8
Using an unlicensed or uninsured vehicle for hire or reward	12
Failure to notify transfer of ownership for Private Hire or Hackney Carriage.	4
Failure to present vehicle for inspection at time appointed by an Authorised Officer	4
Failure to report an accident to local authority	6
Failure to return plate after notice given after expiry, revocation or suspension of Private Hire Vehicle License (except Dual Licensed Vehicles)	4
Evidence of smoking in a vehicle ascertained by officers whilst carrying out vehicle checks	4
Stationary Hackney Carriage Vehicle plying for hire whilst parked other than on a designated rank.	6
Driver offences	Points
Failure to be clean and presentable whilst working (clothing to be clean, smart casual and secure footwear suitable for driving must be worn ie no vests or flip flops)	4

Failure to reasonably assist passengers without good cause or exemption certificate	6
Driving a licensed vehicle without a valid Hackney or Private Hire Driving Licence.	12
Failure to return Private Hire Driver Licence after notice given after revocation or suspension	4
Failure to notify change of name, address, telephone number, Operator, medical condition which may impact on driving within seven days of change	6
Failure to produce DVLA drivers licence within seven days on request of the Authority	4
Driver leaving a Hackney Carriage unattended, or obstructing other Hackney Carriages (#)	4
Failure to wear Driver's Badge in prominent position without exemption	4
Admitting to unnecessarily prolonging a journey	8
Making a false statement or withholding information to obtain a licence	12
Failure to attend a time appointed by an Authorised Officer	4
Admitting or being observed by an Authorised Officer of driving in a careless and inconsiderate manner in accordance with the Road Traffic Act	12
Admitting or being observed by an Authorised Officer of drivers using threatening or offensive language or behaviour	8

Rochdale MBC Licensing Penalty Points Scheme

Offence(s) / Breach of Condition(s) Points Applicable* Driver Vehicle Proprietor or Operator

- 1 Failure to notify, in writing, the Council of change address within 7 calendar days. 3
- 2 Failure to produce relevant documents including failing to provide proof of insurance within timescale when requested by an Authorised Officer. 3
- 3 Failure to carry fire extinguisher. 3
- 4 Failure to use authorised roof light. 3
- 5 Evidence of smoking in vehicle. 3
- 6 Failure to wear driver's badge in such a position and manner as to be plainly and distinctly visible. 3
- 7 Unsatisfactory appearance of driver. 3
- 8 Failure to issue receipt on request 3
- 9 Failure to return vehicle licence/plate and/or Private Hire Drivers/Hackney Carriage Drivers licence/badge within 5 days after due notice following expiry, revocation or suspension of such licence. 3
- 10 Cause excessive noise from any radio or sound reproducing equipment 3
- 11 Operating the horn as a means of signalling that the vehicle has arrived 3
- 12 Failure to give assistance, without reasonable cause, with loading/unloading luggage to or from any building or place. 3
- 13 Failure to display fare card. 3
- 14 Failure to comply with any other conditions and by-laws contained in the Private Hire/Hackney Carriage Driver's conditions, vehicle conditions and Private Hire Operator conditions. 3
- 15 Failure to take found property to the Licensing Office within 72 hours of finding 3
- 16 Unsatisfactory condition of vehicle, interior and/or exterior. 3
- 17 Failure to display external/internal licence plate or signs as required. 3
- 18 Displaying unauthorised, unsuitable or inappropriate sited signs or advertisements in or on the vehicle. 3
- 19 Using a non-calibrated taximeter. 3
- 20 Displaying any feature on private hire vehicle that may suggest that it is a taxi. 3
- 21 Failure to carry spare wheel / Gel as per the requirement of Vehicle Compliance Testing 3
- 22 Driving or attempting to drive a licensed vehicle with a bald tyre. 3 per tyre
- 23 CCTV not conforming to the Council's requirements. 3
- 24 Parking a Vehicle contrary to Road Traffic Regulations 3
- 25 Using a licensed vehicle with a bulb not operational i.e. light bulb, brake light, indicator bulb, fog light etc 3

- 26 Failure to report, in writing, within 72 hours of accident or damage to licensed vehicle, which would cause the vehicle to breach licence condition. 4
- 27 Failure to notify transfer of Private Hire or Hackney Carriage vehicle licence within 14 days. 4
- 28 Unreasonable prolongation of journeys or any misconduct regarding the charging of fares. 4
- 29 Failure to observe rank discipline (relating to Hackney Carriage Drivers) 4
- 30 Allowing a Private Hire Vehicle to use a Hackney Carriage stand 4
- 31 Failure to produce Hackney Carriage or Private Hire vehicle for testing when required. 4
- 32 Providing false or misleading information on licence application form / failing to provide relevant information or the relevant fee. 6
- 33 Failure to maintain records in a suitable form of the commencement and cessation of work of each driver each day. 6
- 34 Failure to produce on request records of drivers work activity. 6
- 35 Failure to maintain proper records of private hire vehicle. 6
- 36 Failure to keep or produce records of Private Hire bookings or other documents required to be kept or produced. 6
- 37 Failure to notify, in writing as soon as is reasonably practicable, a change in medical circumstances.6
- 38 Misleading use of the words 'Taxi' or 'Cab' on advertising materials. 6
- 39 Failure to notify the Council immediately, in writing, of any motoring and/or criminal convictions and/or cautions, warnings, reprimands during initial application and/or the period of current licence. 6
- 40 Failure to display valid and current vehicle excise licence. 6
- 41 Obstruction of an Authorised officer or Police officer in the execution of his/her duties. 6
- 42 Driving whilst using a mobile phone or the contravention of any other driving/road traffic offence, whether convicted or not 6
- 43 Urinating or defecating in a public place 6
- 44 Carrying more passengers than stated on the vehicle licence. 6
- 45 Modifying a vehicle without the consent of the Council. 6
- 46 Displaying the incorrect Operator Award or advertising the incorrect Award 6
- 47 Driving a licensed Private Hire/Hackney Carriage vehicle without a valid Private Hire/Hackney Carriage Driver's Licence 9
- 48 Plying for hire. 12
- 49 Driver not holding a current DVLA Licence. 12
- 50 Using an unlicensed vehicle or licensed vehicle without valid and current motor insurance for Private Hire / Hackney Carriage purposes. 12

- 51 Failure to carry an assistance dog without the requisite valid and current exemption. 12
- 52 Failure to ensure the reasonable safety of passengers conveyed in, entering or leaving the Vehicle 12
- 53 Using a vehicle subject to a suspension order issued by an Authorised officer or a Police officer. 12
- 54 Using a vehicle for which the licence has been revoked. 12
- 55 Failure to comply with the requirements for the safe carrying of a wheelchair. 12
- 56 Driving or attempting to drive vehicle when unfit through drugs or being in possession of drugs whilst in vehicle 12
- 57 Unsatisfactory/Inappropriate behaviour or conduct of driver (May be referred to the Panel) 1-12
- 58 Failure to behave in a civil and orderly manner (May be referred to the Panel) 1-12
- 59 Refusal to accept hiring without reasonable cause e.g. Drunk or rude customer etc. (May be referred to the Licensing Panel) 1-12
- 60 Appeal of points by way of Licensing Panel. 4-12

EAST LINDSEY DISTRICT COUNCIL
PENALTY POINT SCHEME

- 1 Providing false or misleading information on licence application form / failing to provide relevant information or the relevant fee (including dishonoured cheques). 6
- 2 Failure to notify, in writing, the Authority of change of address within seven calendar days. 3
- 3 Refusal to accept hiring without reasonable cause (N.B. reasonable excuse can include drunk or rude customer) 6
- 4 Unreasonable prolongation of journeys or any misconduct regarding the charging of fares. 6
- 5 Plying for hire by private hire drivers. 9
- 6 Failure to display current vehicle excise licence (tax disc). 4
- 7 Using unlicensed vehicle for carrying passengers for hire or reward or vehicle without insurance. 12
- 8 Failure to produce relevant documents within timescale, when requested by a Licensing Officer/Police Officer. 4
- 9 Unsatisfactory condition of vehicle - interior or exterior. 4
- 10 Failure to provide proof of insurance cover when requested. 6
- 11 Failure to produce hackney carriage or private hire vehicle for testing when required. 4
- 12 Using a vehicle whilst subject to a suspension order issued by a Licensing Officer/Police Officer. 12
- 13 Using a vehicle for which the licence has been revoked. 12
- 14 Failure to report, in writing, within 72 hours, accident or damage to licensed vehicle, which would cause the vehicle to breach licence condition. 4
- 15 Carrying more passengers than stated on the vehicle licence. 6
- 16 Failure to display external licence plate as required. 4
- 17 Carrying an offensive weapon in the vehicle. 12
- 18 Failure to notify transfer of private hire or hackney carriage vehicle licence. 4
- 19 Failure to carry fire extinguisher. 4
- 20 Using unauthorised signage on the outside of the vehicle. 3
- 21 Displaying unsuitable or inappropriately sited signs or advertisements in or on the vehicle. 3

- 22 Failure to use authorised roof light. 4
- 23 Displaying unauthorised written or other material on the vehicle's rear window. 4
- 24 Failure to comply with a requirement, provide information or assistance to a Licensing Officer/Police Officer. 6
- 25 Using a non-approved or non-calibrated taximeter. 6
- 26 Obstruction of Licensing Officer/Police Officer wishing to examine a licensed vehicle. 12
- 27 Evidence of smoking in vehicle. 3
- 28 Evidence of unacceptable food or drink in vehicle. 3
- 29 Displaying any feature on a private hire vehicle that may suggest that it is a taxi. 6
- 30 Using a vehicle the appearance of which suggests that it is a taxi. 6
- 31 Failure to carry an assistance dog without requisite exemption. 12
- 32 Driver not holding a current DVLA Driving licence. 12
- 33 Failure to wear driver's badge. 4
- 34 Failure to notify, in writing, a change in medical circumstances. 6
- 35 Unsatisfactory appearance of driver. 3
- 36 Failure to observe rank discipline (hackney carriage only). 4
- 37 Failure to maintain proper records of private hire vehicle. 3
- 38 Failure to keep or produce records of private hire bookings or other documents required to be kept or produced. 6
- 39 Private Hire - Misleading use of the words 'Taxi' or 'Cab' on advertising materials. 3
- 40 Failure to issue receipt on request. 3
- 41 Failure to return vehicle licence plate within 7 days after due notice following expiry, revocation or suspension of such licence. 4
- 42 Unsatisfactory behaviour or conduct of driver. 4
- 43 Failure to notify the Authority, in writing, of any motoring or criminal convictions within 7 days of said conviction or cautions during period of current licence. 6
- 44 Failure to behave in a civil and orderly manner. 4
- 45 Failure to give assistance with loading/unloading luggage to or from any building or place. 3
- 46 Failure to display table of fares. 4

- 47 Failure to carry legal spare wheel 4
- 48 Failure to attend punctually at appointed time and place without sufficient cause. 4
- 49 Using a vehicle with bald tyre(s). 4 per tyre
- 50 Failure to submit vehicle for six monthly vehicle CoC inspection. 6
- 51 Failure to display a current licence plate. 4
- 52 Waiting or stopping on a double yellow line area, bus stop or private land (without the owner's permission) and double parking unless requested by a paying customer present in the vehicle. 3
- 53 Failure to comply with any other condition not detailed in the table. 3
- 54 Driver using a hand held mobile phone while driving a licensed vehicle. 6
- 55 Driver smoking in licensed vehicle. 6

Where a licence holder accumulates 12 or more penalty points in any three year period, the matter will be referred to the Licensing Committee for the Committee to decide whether the driver is a 'fit and proper' person. The Committee may then suspend or revoke a licence, or issue a warning to the licence holder, depending on the circumstances.

Periods of suspension of a licence by the Committee will be dependent on the nature of the breaches of licensing legislation/conditions and the compliance history of the individual.

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SHEFFIELD CITY COUNCIL LICENSING COMMITTEE

Report of: Chief Licensing Officer

Date: 14th November 2013

Subject: Private Hire and Hackney Carriage Licensing

Author of Report: Steven Lonnia Chief Licensing Officer,
Business and Strategy, Place Portfolio

Summary: Report – Taxi Enforcement Review

Category of Report: OPEN

Private Hire & Hackney Carriage Licensing

Enforcement Activity

1. PURPOSE

- 1.1 To report to the Licensing Sub Committee the enforcement activity undertaken in private hire and taxi licensing for the period 1st April 2013 to 30th September 2013.

2.0 BACKGROUND

- 2.1 On 25th October 2005, the Licensing Board considered the comments and recommendations of the Strategic Resources and Performance Scrutiny and Policy Development Board and one of the resolutions of the meeting was;

“the Assistant Chief Executive, Legal and Governance, be requested to submit quarterly reports to this Board on enforcement practice by the Taxi Licensing Section”

- 2.2 The Licensing Board have previously agreed the level of enforcement activity, at its meeting of April 2007, the Licensing Board accepted that the Taxi Licensing Section undertake 88 enforcement duties per year.
- 2.3 This equates to at least 40 weeks per year with 2 officers having some form of enforcement activity take place over 2 nights/days a week. The rest is made up of day time and out of town enforcement with other agencies

3.0 Description of and reasoning behind enforcement Activity.

- 3.1 The Council has a duty to enforce the legislation in relation to Hackney Carriage and Private Hire Licensing.
- 3.2 The purpose of enforcement should always be to safeguard the health safety and welfare of the public by ensuring that the relevant legislation is complied with. The aim is to provide a good, accessible and safe means of public transport. It must be remembered that Private Hire and Hackney Carriage Drivers provide the service in order to earn a wage, they will only be there to provide a service if they are able to make a reasonable living.
- 3.3 Enforcement is all about maintaining reasonable standards in terms of vehicle condition and driver conduct and safeguarding both the public and licensees by preventing, insofar as we are able, illegal activity by those that are not appropriately licensed.
- 3.4 Current enforcement takes many forms, this includes night time on street enforcement by Officers, day time enforcement by officers, Enforcement is also done by way of stringent testing of vehicles by the Councils testing centre.
- 3.5 The 88 enforcement activities as stated in 2.2 are to take the form of out of office enforcement duties whether that be within normal office hours or out of office hours which will include at least 30 night time and/or weekend enforcement duties.
- 3.6 The 88 will also be included in the enforcement duties undertaken in joint agency enforcement exercises what ever form they take.

4.0 Enforcement Activity Undertaken

4.1 Set out below are the number and types of enforcement action conducted in the period 1st April 2013 to 30th September 2013

4.2 Vehicle Enforcement.

4.3 The table below shows how many vehicles were checked by officers, or seen over the period stated with the following outcomes:-

MONTH	No of Vehicles	Clear Checks	Defect notice issued	Suspensions	Other
April	59	30	28	0	1
May	79	58	18	0	3
June	73	56	14	1	2
July	64	51	13	0	0
August	120	113	7	0	0
Sept	59	43	16	0	0
TOTALS	454	351	96	1	6

4.4 Driver checks

4.5 The table below shows how many drivers/licensee checks undertaken by officers for the period, and gives the outcomes. Driver enforcement can take many forms and the numbers below may include warning letters that have been issued for reasons other than on street enforcement checks.

MONTH	No of Drivers	Clear Checks	Warning letters/defect notices	Suspensions	Other
April	34	18	16	0	0
May	47	16	29	0	2
June	64	9	50	0	5
July	66	32	28	0	6
Aug	113	102	9	0	2
Sept	47	35	12	0	0
TOTALS	371	212	144	0	15

4.6 Drivers & Licensee warning letters are often issued in relation to the licensed vehicle that they own or were the driver of at the time.

4.7 Defect letters will be sent out to licensees if a vehicle is seen to have a defect, e.g. Brake Light inoperative, and the vehicle was not physically inspected by an officer but was seen whilst officers were undertaking their duties.

5.0 Areas of Concern

5.1 As part of the normal enforcement duties carried out by officers, they have standing instructions to undertake enforcement activity in certain areas of the city where either members of the public or other agencies have reported problems involving hackney carriages or private hire vehicles. Some of the findings in the problem are listed below.

5.2 Castle Street. This area continues to be of concern for cyclists, and 12 warning letters have been issued to drivers in this period of enforcement activity, for causing a hazard or obstruction on this particular road.

5.3 City Road. This has again been reported as a problem area for illegal plying for hire and officers have been in the area over the last few months, purely for observation purposes at present and further enforcement activity in this area will take place over the coming months.

6.0 Prosecutions and Cautions of Offenders

6.1 There has been a single prosecutions during the period of 1st April 2013, and 30th September, this was for failure to carry an assistance dog. The outcome of which was the driver was fined £75 and asked to pay £40 compensation and £405 costs also a victim surcharge of £20.

6.3 There are 2 pending prosecutions for driving without a licence and no insurances offences currently awaiting trial dates.

7 Committee referrals and appeals

7.1 In this recording period the Licensing Section has referred 68 cases to the Licensing Sub Committee under the referrals policy.

7.2 A breakdown of the outcomes is set out below,

MONTH	No Cases	Granted Renewed or Re-instated	Grt/Renew with Warning	Refused/ Revoked	Suspended	Deferred /DTU
April	14	7	2	3	0	2
May	8	2	1	3	0	2
June	14	8	0	5	0	1
July	13	9	1	2	0	1
Aug	6	2	0	2	0	2
Sept	13	6	2	2	0	3
TOTALS	68	34	6	17	0	11

7.3 The Licensing Section has also attended 12 appeals and of those 12 appeals, 9 had their license granted or re-instated, 2 had their appeal dismissed and one person withdrew their appeal

8.0 Multi Agency Enforcement

8.1 The licensing section took part in a 3 joint enforcement exercises with South Yorkshire Police over a three separate days. The results of which are contained within the tables in section 4. This also may account for the high number of checks made in August then other months.

8.2 The licensing section declined an invitation to a multi-agency exercise held at East Midlands airport; this was as a result of an earlier instruction from this committee to refrain from out of town enforcement. Previous such exercises have resulted in little or no action or problems from Sheffield Licensed vehicles.

9.0 Future Multi Agency Enforcement

9.1 Taxi Licensing Section have formed working partnerships with Road Traffic Police, VOSA and other Agencies including the Council's own parking services.

9.2 There will be more joint enforcement exercises but due to the nature and the complexity of the organisations involved these take some time to set up. All future reports will include details of all joint exercises.

10.0 Future Reports

10.1 Future reports on enforcement practice by the Taxi Licensing Section will be submitted on regular basis through out the year up to a maximum of 4 reports.

10.2 Over the past few months the Licensing Service has been reorganised and structures within the service changed. We now have a more flexible team and taxi officers will be working along side other licensing officers. Enforcement will continue but it will be more joined up then we have been operating under in the past.

10.3 This means that on certain operations and exercises the officers time spent solely on taxi enforcement will be limited.

10.4 The new joined up approach will not affect the amount of taxi enforcement undertaken and we will strive to maintain the current high standards of enforcement we operate under.

11.0 Financial & Staffing Implications

11.1 None in relation to this report.

11.2 The enforcement costs are met from fee's received on vehicle applications and miscellaneous items to the Council. It is not legal to pay for enforcement duties from driver licence fees.

11.3 Licence fees are reviewed on an annual basis and this is when the fees would be adjusted if needed to be.

12.0 Recommendations

12.1 That members consider the content of this report.

13.0 Options

- 13.1 Consider the report and change the type and frequency of enforcement activity they require from the Taxi Licensing Section. If any changes are made then those changes to be clearly stated in the resolution.
- 13.2 Accept the report and make no changes to the frequency or type of enforcement undertaken.

Stephen Lonnia
Chief Licensing Officer
November 2013.