

LICENSING COMMITTEE

THURSDAY 18 SEPTEMBER 2014

7.00 PM

Bourges/Viersen Rooms - Town Hall

AGENDA

Page No

1. Apologies for Absence

2. Declarations of Interest

At this point Members must declare whether they have a disclosable pecuniary interest, or other interest, in any of the items on the agenda, unless it is already entered in the register of members' interests or is a "pending notification" that has been disclosed to the Solicitor to the Council.

Members must also declare if they are subject to their party group whip in relation to any items under consideration.

3. Minutes of the Meetings Held on:

3.1	13 February 2014	3 - 6
3.2	13 March 2014	7 - 8
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3.4	Minutes of the Sub Committee Hearings Held Between October 2013 and August 2014	11 - 58

4. CCTV in Hackney Carriage and Private Hire Vehicles Taxi Licensing 59 - 62

5. Guidelines Relating to the Relevance of Convictions / Cautions Taxi Licensing 63 - 80

6. Review of the Private Hire Operator Licensing Conditions Taxi Licensing 81 - 90

7. Change in the Licensing Policy for Hackney Carriage Vehicle Licensing 91 - 120

Emergency Evacuation Procedure – Outside Normal Office Hours

In the event of the fire alarm sounding all persons should vacate the building by way of the nearest escape route and proceed directly to the assembly point in front of the Cathedral. The duty Beadle will assume overall control during any evacuation, however in the unlikely event the Beadle is unavailable, this responsibility will be assumed by the Committee Chair.



There is an induction hearing loop system available in all meeting rooms. Some of the systems are infra-red operated, if you wish to use this system then please contact Philippa Turvey on 01733 452460 as soon as possible.

Committee Members:

Councillors: P Thacker (Chairman), P Hiller (Vice Chairman), S Allen, A Iqbal, G Nawaz, M Jamil, A Miners, R Herdman, Davidson and S Lane

Substitutes: Councillors: G Casey, N Khan, B Saltmarsh, N Sandford and J R Fox

Further information about this meeting can be obtained from Philippa Turvey on telephone 01733 452460 or by email – philippa.turvey@peterborough.gov.uk

**MINUTES OF A MEETING OF THE LICENSING COMMITTEE
HELD AT THE TOWN HALL, PETERBOROUGH ON 13 FEBRUARY 2014**

Members Present: Councillors Thacker (Chairman), Peach (Vice Chairman), Kreling, Nawaz, Jamil, Saltmarsh and Miners

Officers Present: Peter Gell, Strategic Regulatory Services Manager
Adrian Day, Licensing Manager
Gemma George, Senior Governance Officer

1. Apologies for Absence

Apologies for absence were received from Councillors Allen, Serluca and Davidson.

2. Declarations of Interest

There were no declarations of interest.

3. Minutes of the Meetings Held on:

3.1 14 November 2013

The minutes of the meeting held on 14 November 2013 were approved as a true and accurate record.

3.2 12 December 2013

The minutes of the meeting held on 12 December 2013 were approved as a true and accurate record.

4. Changes in the Licensing Policy for Hackney Carriage and Private Hire Vehicle Licensing

The Committee received a report which followed on from its decision at the meeting held on 21 January 2013.

A full consultation had been launched in relation to the Hackney Carriage and Private Hire Licensing Policy in order to ensure that it remained appropriate and fit for purpose.

The purpose of the consultation was to seek responses from all stakeholders who had an interest in or may have been affected by the Hackney Carriage and Private Hire Policy.

The consultation covered many areas of Hackney Carriage and Private Hire Licensing, but for the purposes of the report the Licensing Committee was asked to consider only vehicle testing for Hackney Carriage and Private Hire Vehicles. Therefore only responses relating to that area were included. The other areas of consultation were to be included in further reports to the Committee at a later date.

The Committee was requested to approve one of the following options:

1. To introduce the requirement to have a standard MOT test carried out by any VOSA authorised MOT testing stations instead of the existing requirement for an MOT exemption test to be carried out by the Council's contracted test centre;
2. To introduce the requirement to have a standard MOT test carried out by only VOSA authorised MOT testing stations, which were members of the Council's "vehicle testing centre scheme" (at the time yet to be implemented) instead of the existing requirement for an MOT exemption test to be carried out by the Council's contracted test centre; or
3. To retain the current requirement to have an MOT exemption test carried out by the Council's contracted test centre and utilise the contract framework already in place with Amey (formerly known as Enterprise).

The Licensing Manager presented the report. Key points highlighted included:

- An annual MOT exemption test was currently carried out by Enterprise or Unity;
- Vehicles currently over six years of age needed to be tested every six months;
- The Police had put in a representation against Option 1 as this would dissolve the Council of any responsibility for testing. No representations had been made in favour of Option 1; and
- One drawback of Option 2 was that there would still be administrative costs relating to the tests. The previous secretary of the Hackney Carriage Federation had stated his support for Option 2.

Members questioned the Licensing Manager and responses included:

- There were currently five officers answering phones and processing applications. They spent roughly half of their work time on the telephone;
- As the consultation had been undertaken almost a year ago, there had been meetings with Amey (formally Enterprise) who had stated that they would look at increasing testing availability. They would also arrange plate fittings;
- There were roughly 180 Hackney Carriages in Peterborough and 635 annual tests had been carried out in 2013 and 250 six month tests had been carried out;
- If Option 2 was implemented, it would be the trade's choice as to whether or not to utilise Amey; and
- Option 2 would reduce the administrative burden on the Council.

Mr Choudhury, Peterborough Hackney Carriage Federation, had requested permission to address the Committee, this was agreed and the following points were raised:

- Option 2 was preferable as it would save the Licensing Office resources;
- Six monthly tests were supported, as were exemption certificates;
- Option 2 would free up competition in the market; and
- Prices would come down as there would be more competition.

Members debated the options available and questioned officers further. Key points highlighted included:

- Allowing more outlets would give convenience to drivers. There could be a preferred list to ensure that checks for disability and other safety checks would be carried out;
- Retention of Option 3 would create a monopoly and would keep prices high; and
- Option 3 would be the least resource intensive for officers.

Following debate, the Committee agreed that in order to proceed, further information on the Options was required.

RESOLVED:

The Committee agreed to postpone the decision until a later date when more up-to-date paperwork could be provided for options two and three and an Amey representative could be present.

Reasons for the decision:

The decision was made in order to ensure that the decision was fair to everyone and made with more current information.

Chairman

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**MINUTES OF A MEETING OF THE LICENSING COMMITTEE
HELD AT THE TOWN HALL, PETERBOROUGH ON 13 MARCH 2014**

Members Present: Councillors Thacker (Chairman), Peach (Vice Chairman), Kreling, Nawaz, Serluca, Jamil, Miners and Saltmarsh.

Officers Present: Peter Gell, Strategic Regulatory Services Manager
Adrian Day, Licensing Manager
Gemma George, Senior Governance Officer

1. Apologies for Absence

Apologies for absence were received from Councillors Allen and Davidson.

2. Declarations of Interest

There were no declarations of interest.

3. Changes in the Licensing Policy for Hackney Carriage and Private Hire Vehicle Licensing – Limousine and Speciality Vehicles

The Committee received a report which followed on from its decision at the meeting held on 21 January 2013.

A full consultation had been launched in relation to the Hackney Carriage and Private Hire Licensing Policy in order to ensure that it remained appropriate and fit for purpose.

The purpose of the consultation was to seek responses from all stakeholders who had an interest in or may have been affected by the Hackney Carriage and Private Hire Policy.

The consultation covered many areas of Hackney Carriage and Private Hire Licensing, but for the purposes of the report the Licensing Committee was asked to consider only the licensing of Limousine and Speciality vehicles. Therefore only responses relating to that area were included. The other areas of consultation were to be included in further reports to the Committee at a later date.

The Officer's recommendation was that the Committee approved the licensing of Limousine and Speciality Vehicles as set out in the report with or without changes under Section 75 (1) (b) of the Local Government (Miscellaneous Provisions) Act 1976 and that the Committee approved the draft Licensing Conditions for Limousine and Speciality Vehicles with or without changes.

The Licensing Manager presented the report. Key points highlighted included:

- The Police were happy with the proposals to license limousines;
- Peterborough had a number of companies which offered the services of limousines and special event vehicles;
- At the current time, the operators, drivers and vehicles were not subject to any form of checks as was usual in the private hire trade;

- Amey had been approved by VOSA to carry out tests for limousines; and
- The vehicles would not be brand-new, as they were likely to be imported and ensuring their safety was important.

Mr Wayne Fitzgerald had submitted a response to the consultation, as included within the report and had further requested permission to address the Committee. This was agreed and in summary, Mr Fitzgerald raised the following key points:

- Weddings and funerals were exempt from private hire legislation and therefore currently it was not possible to provide a service to everybody who would request it i.e. for proms;
- There were only three limousine companies in Peterborough and it would be beneficial for them to be regulated;
- The test currently for private hire vehicles was no different from the MOT test but was nonetheless more expensive;
- As the cars were not likely to be used very often, six monthly testing would most likely be unnecessary;
- There should be no age restriction on licensing speciality vehicles providing they were roadworthy;
- Older, vintage vehicles did not have seatbelts fitted;
- Rather than carrying number plates in the boot of the vehicle, could a sticker be made for the window instead?
- There was no need for the Council to do anything extraneous to what was already legally required.

Members were invited to comment on the report and comments and responses to questions included:

- The mileage of the vehicles would be significantly less than an ordinary private hire vehicle, so twelve month testing may be more appropriate;
- The MOT testing of vehicles was currently under review;
- Making a number plate to keep in the boot of the vehicle was nonsensical and a waste of money;
- Because there were only a small number of limousines, many depots were not willing to adapt their workshops.

Members further debated the report and possible exemptions. Further concerns were highlighted in relation to the proposed testing cost and frequency of testing for speciality vehicles.

RESOLVED:

The Committee:

1. Approved the licensing of limousine and speciality vehicles as set out in the report, under Section 75 (1) (b) of the Local Government (Miscellaneous Provisions) Act 1976 with the following change;

‘that speciality vehicles be tested annually at a cost of £198 over three years’.

2. Approved the draft licensing conditions for limousine and speciality vehicles with the requirement for seatbelts and the display of licence plates being exempt in relation to speciality vehicles;

Chairman
7.00pm – 7.45pm

**MINUTES OF A MEETING OF THE LICENSING COMMITTEE
HELD AT THE TOWN HALL, PETERBOROUGH ON 17 APRIL 2014**

Members Present: Councillors Thacker (Chairman), Peach (Vice Chairman), Miners, Saltmarsh.

Officers Present: Peter Gell, Strategic Regulatory Services Manager
Colin Miles, Lawyer
Gemma George, Senior Governance Officer
Philippa Turvey, Senior Governance Officer

The Chairman addressed the meeting and advised that the Committee was inquorate. She would allow a 20 minute wait for Members to arrive. Apologies for absence had been received from Councillors Allen, Kreling and Nawaz.

Following a 20 minute wait the Chairman addressed the meeting once again and advised that the Committee was still inquorate. It was agreed that the business of the Committee would be postponed until the next meeting of the Licensing Committee on Thursday, 24 July at 7:00pm. This was agreed instead of an additional meeting, as the item of business was not considered to be urgent.

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Meeting of the Licensing Act 2003 Sub-Committee
 held at the Town Hall, Peterborough on Monday, 18 November 2013

RECORD OF PROCEEDINGS

1. Apologies for Absence	There were no apologies for absence received.
2. Declarations of Interest	There were no declarations of interest.
3. Application	Review of Premises Licence – Mini Poli: 1. Ashwood House, Unit A, Enterprise Way, Bretton Way Peterborough PE3 8YG 2. 44 – 46 Ivatt Way, Peterborough, PE3 7PN
3.1 Application Reference	1. MAU 068075 – Ashwood House, Unit A, Enterprise Way, Bretton Way Peterborough PE3 8YG. 2. MAU 068076 – 44 – 46 Ivatt Way, Peterborough, PE3 7PN.
3.2 Sub-Committee Members	Councillor Thacker (Chairman) Councillor Peach Councillor Davidson
3.3 Officers	Adrian Day, Licensing Manager Colin Miles, Lawyer – Legal Advisor to the Sub-Committee Karen S Dunleavy, Governance Officer – Clerk to the Sub-Committee
3.4 Applicant	Trading Standards
3.5 Nature of Application	<u>Application Type</u> Review of existing Premises Licences. The Committee was informed that the Premises Licence Holder for Mini Poli situated at 44-46 Ivatt Way, had surrendered the Premises Licence. The Committee agreed that the review into the Licence would be withdrawn. <u>Summary of Review Application</u> In accordance with section 51 of the Licensing Act 2003, following the submission of an application to review the premises licence from Trading Standards, a Responsible Authority, the Licensing Authority was required to hold a hearing. The application to review, served by Trading Standards, was received on 23 September 2013, which had included a summary of the witness statement from Her Majesty’s Custom and Excise (HMRC). A representative from HMRC was also present in order to answer questions that the Licence

	<p>Holder's representative or Sub-Committee had.</p> <p>A representation in support of the review and recommendations had been received from Cambridgeshire Constabulary.</p> <p>A summary of the issues raised within the representations included:</p> <ol style="list-style-type: none"> 1. Her Majesty's Revenue and Customs (HMRC) had seized alleged non UK duty paid alcohol from the premises on 4th July 2013; 2. The premises had failed to provide documentation for the seized products to prove UK duty had been paid; and 3. Guidance issued under section 182 of the Licensing Act 2003 recommended revocation, even in the first instance.
3.6	<p>Licensing Objective(s) under which representations were made</p> <p>1. Prevention of Crime and Disorder</p>
3.7	<p>Parties/Representatives and witnesses present</p> <p><u>Applicant / Responsible Authority</u></p> <p>Karen Woods who presented the case on behalf of Trading Standards. Trading standards was also accompanied by Jeannette Kett of HM Revenue & Customs (HMRC).</p> <p><u>Responsible Authorities</u></p> <p>PC Grahame Robinson, who was present on behalf of Cambridgeshire Constabulary.</p> <p><u>Licensee / Representative</u></p> <p>Mr David Dadds, the Licence Holder's Barrister.</p>
3.8	<p>Written representations and supplementary material taken into consideration</p> <p><u>Applicant / Responsible Authority – Trading Standards</u></p> <p>Consideration was given to the application and HMRC witness statement submitted by Trading Standards and Cambridgeshire Constabulary and attached to the Sub-Committee report.</p>
3.9	<p>Facts/Issues in dispute</p> <p><u>Issue 1</u></p> <p>Whether the review application would further support the 'Prevention of Crime and Disorder' Licensing Objective.</p>
3.10	<p>Oral representations</p> <p><u>Request for Private Hearing from the Licensee's Representative</u></p> <p>The Licensee's Representative addressed the Committee and requested for the Hearing to be held in an exempt session, in order to avoid discussing, in public, any commercially sensitive information or evidence that may be relied upon at a criminal proceeding.</p> <p>The Legal Advisor to the Sub-Committee advised that the Committee would discuss information in relation to the Licensing Review Hearing, which had been presented before them and that it was not a matter for a criminal trial in</p>

the future for the Committee to take any consideration on.

Following the request to hold an exempt session and the Legal advice provided, the Committee agreed that the Licensing Hearing would continue to be held in a public session.

Regulatory Manager

The Regulatory Manager addressed the Sub-Committee and outlined the main points with regards to the application.

An application had been received from Trading Standards in their capacity as a Responsible Authority regarding the seizure of alleged non duty paid alcohol from the premises namely Mini Poli – Ashwood House, Enterprise Peterborough. The Committee were informed that there had been an administrative error in production of the initial notice presented to Mini Poli, however, the timings of the notice and the error had not had a material effect on the licence process followed and had not prejudiced the case in any way.

Licensee's Representative

Mr Dadds, addressed the Sub-Committee. The key points raised during his address, and following questions from the Sub-Committee, included:

- The company were a responsible employer and had paid the relevant taxes;
- There had been a larger quantity of alcohol received for Mini Poli on 4 and 5 June 2013, in order to stock a new warehouse for which there had been no invoices. Mini Poli were rejecting the stock unless the wholesaler was able demonstrate that there had been duty paid;
- There had been ciders and beers seized by HMRC where invoices showed that VAT had been paid. HMRC had claimed that they were unable to reconcile the invoices with the goods seized;
- The goods seized were for wholesale which was an unlicensed activity;
- Mini Poli had been unable to confirm purchases were made legitimately as HMRC retained the invoices and paperwork, and that some deliveries were made without delivery notes;
- The company was not responsible for import duty;
- Mini Poli had offered HMRC access to the company's accountants through ARWC consultancy;
- There had historically been an existing problem with imported alcohol for UK wholesalers, as it was unclear of what duty had been paid. A Government exercise was currently underway to improve the stamping and registration scheme of duty for wholesalers;
- Mini Poli's old delivery system had not, in the past, operated in an efficient way. However, going forward, the Mini Poli warehouse had adopted a new recording system, which consisted of an electronic processing for invoices;
- Invoices for Mini Poli were kept for one quarter of the businesses period, the documentation would then be sent to their accountant;
- Mini Poli had utilised, a variety of suppliers located in the United Kingdom (UK), however, a recent change had resulted in the company utilising one supplier within the UK;

- Mini Poli, via ARWC consultancy firm sought the return of the seized goods and paperwork by letter dated 8 August 2013;
- There had been no evidence that the goods had been smuggled as no traceability exercise had been undertaken, which would involve matching a product barcode;
- Some of the delivery notes may have been located on the pallets that had been seized; and
- HMRC would be required to take photographic evidence collected in seizures as part of their process. This evidence would provide batch codes relating to the goods.

Mr Dadds wished for the Sub-Committee's Legal Officer's advice to be noted within the minutes, regarding how his advice would be offered to Committee and that it was not required to be conducted in public.

Trading Standards and HMRC

Trading Standards and HMRC responded to comments and questions raised by the Sub-Committee and the Licensee's Representative. In summary the responses included:

- Where two visits were conducted by HMRC Officers at Mini Poli, Ashwood House on 12 and 18 June 2013, there was no matching invoice records held within the records of business or any proof of verification, evidence for the goods seized on 3 and 4 July;
- HMRC Officers afforded Mr Baractor a further day in which to present supporting evidence for the goods seized;
- No appeal against the seizure of goods was made by Mini Poli within the Statutory 28 days and therefore the alcohol was condemned in accordance with the Customs and Excise Act 1979;
- There had been no traceability exercise conducted due to the lack of matching paperwork provided;
- Mini Poli would have been aware of the return visits in order to produce supporting evidence for the goods seized, however, on the first visit there had been no match, on the second and third visit to Mini Poli there was no further paperwork received that had matched the goods seized;
- It was not clear from a letter received from ARWC consultants whether they or Mini Poli were requesting a condemnation appeal through the Magistrate's Court, the letter sent had been followed by numerous phone calls by HMRC to Mini Poli seeking clarification;
- Traceability was an audit exercise and once the trail had been broken then no trace would be available on the goods. The batch number would display a name and address, however, Mini Poli did not contact the supplier in order to provide paperwork in relation to the batch numbers and address; and
- As the seizure was not appealed against the goods were deemed forfeited and were destroyed. No records of batch code and addresses had been maintained by HMRC of the goods destroyed.

4. Decision

The Sub-Committee listened to all the evidence put before it and also took into account the contents of the application and all representations and submissions made in relation to it. The Sub-Committee found as follows:-

The Sub-Committee considered the various options available, these being:

- a) to modify the conditions of the premises licence;
- b) to exclude a licensable activity from the scope of the licence;
- c) to remove the designated premises supervisor from the licence;
- d) to suspend the licence for a period not exceeding three months; or
- e) to revoke the licence.

The decision of the Licensing Act 2003 Sub-Committee was to revoke the licence for the premises, known as Mini Poli, Ashwood House, situated on Enterprise Way, Bretton Way, Peterborough, due to the Committees serious view of non-payment of revenue.

The reasons for the Sub-Committees decision included:

- The facts were that 51,506.46 litres of beer and cider, and 9.5 litres of spirits were seized from three premises by HMRC on 4 July 2013, following a number of visits to Mini Poli 44-46 Ivatt Way, Peterborough;
- HMRC stated that £66,167.48 of revenue had not been paid on the seized goods;
- HMRC stated that no formal request for the return of the seized goods had been received within the requisite 28 day period;
- It appeared that there was no record of batch numbers or of provenance held by HMRC;
- A letter dated 8 August 2013 received by HMRC on 7 August 2013 from ARWC Consulting Ltd acting for the Premises Licence Holder contained a request that the goods be returned. In a reply dated 7 August 2013 HMRC enquired if there was to be official challenge to the seizure of goods and if so, a Condemnation Hearing before the Magistrates' Court would take place. There had been no reply to this letter;
- To date, no invoices or proof of revenue paid had been supplied to HMRC by the Licence Holder nor had any documents seized, shown that revenue was paid;
- HMRC visited Mini Poli in Ivatt Way on 12 June, 18 June and 3 July 2013.
- Mini Poli were afforded the opportunity to supply evidence of revenue paid on a number of alcohol purchases;
- The paper records seized by HMRC on 4 July 2013, had not shown that revenue had been paid. The Sub-Committee was directed to section 118 of the Customs and Excise Management Act 1979, which placed a duty on revenue traders to keep records, and furnish records and information on request;
- Government Guidance at paragraph 11.28, stated that 'where the premises was being used to further crimes, it had been expected that revocation of the licence even in the first instance should be considered';
- At paragraph 11.27 the guidance stated 'certain criminal activity

should be treated particularly seriously. These include for 'the sale of smuggled alcohol';

- There had been no information that demonstrated revenue had been correctly and lawfully paid on the seized alcohol;
- This had been a large operation in which a significant amount of alcohol was seized. There were three premises involved with the sale and or storage of alcohol, Mini Poli at Ivatt Way, Enterprise Way and a warehouse used to store goods;
- In light of the evidence presented at the hearing there had been more weight attached to the information provided by the officers, than to the submissions made on behalf of the licence holder;
- Appropriate conditions could not be applied by the Sub-Committee as existing law had covered the collection of revenue and any conditions would only reflect that existing law; and
- Given the amount seized and the ongoing issues with seeking proof of purchase, the Sub-Committee did not consider that a change of Designated Premises Supervisor was appropriate, nor a suspension of the licence would suffice in these circumstances.

Any party in objection to the decision may appeal to the Peterborough Magistrates Court within 21 days.

Chairman

10.00am – 2.07pm

Public Document Pack



**Meeting of the Licensing Act 2003 Sub-Committee
held at the Town Hall, Peterborough on Friday, 13 December 2013**

RECORD OF DECISION

1. Apologies for Absence	Apologies for absence was received from Councillor Davidson, Councillor Miners was in attendance.
2. Declarations of Interest	There were no declarations of interest.
3. Application	Variation of Premises Licence – Peterborough International Food Centre – 314/316 Lincoln Road, PE1 2ND.
3.1 Application Reference	MAU 068221
3.2 Sub-Committee Members	Councillor (Chairman) Thacker Councillor Serluca Councillor Miners
3.3 Officers	Darren Dolby , Regulatory Officer – Licensing Colin Miles, Lawyer – Legal Advisor to the Sub-Committee Karen S Dunleavy, Governance Officer – Clerk to the Sub-Committee
3.4 Applicant	Ismail Akdogan
3.5 Nature of Application	<p><u>Application Type</u></p> <p>Variation</p> <p><u>Summary of Variation Application</u></p> <p>In accordance with section 51 of the Licensing Act 2003, following the submission of an application to vary the premises licence for Peterborough International Food Centre, 314/316 Lincoln Road, from Mr Ismail Akdogan, a Responsible Authority, the licensing authority was required to hold a hearing.</p> <p>The application to vary the premises licence, submitted by Mr Akdogan, was received on 16 October 2013.</p> <p>The variation application in summary included:</p> <ul style="list-style-type: none"> • To increase the hours authorised to sell alcohol from 8am until 2am. The premises was currently authorised to sell alcohol Sunday to Thursday 8am to Midnight and 8am until 2am on Fridays and Saturdays; • To add the condition – ‘8 CCTV cameras would be in place and be visible from behind the counter’; • To add the condition – ‘ five fire alarms and fire exits would be in place’; • To add the condition - ‘Rubbish to be removed’; and • To add the condition – ‘The Challenge 25 age policy and a refusal book will be in place’.

	<p>A representation against the variation application had been received from Cambridgeshire Constabulary, the Interim Director of Public Health, NHS Peterborough, the Planning Department and the Noise Pollution Team as Responsible Authorities. No other representations had been received from any of the remaining Responsible Authorities.</p> <p>A summary of the issues raised within the representations included:</p> <ul style="list-style-type: none"> • An increase in litter in the area; • An increase in anti-social behaviour in the area; and • Negative impact on the principles of the 'Operation CAN-Do' initiative and the Cumulative Impact Area.
<p>3.6 Licensing Objective(s) under which representations were made</p>	<p>1. The Prevention of Crime and Disorder; 2. The Protection of Public Safety; and 3. The Prevention of Public Nuisance.</p>
<p>3.7 Parties/Representatives and witnesses present</p>	<p><u>Applicant / Responsible Authority</u></p> <p>Mr Langford B Smith, who presented the case on behalf of Mr Ismail Akdogan.</p> <p><u>Responsible Authorities</u></p> <p>PC Grahame Robinson, who was present on behalf of Cambridgeshire Constabulary.</p> <p>David Martschenko, who was present on behalf of Noise Pollution Control Team.</p> <p><u>Licensee / Representative</u></p> <p>Mr Langford B Smith was in attendance on behalf of Mr Akdogan.</p> <p><u>Other Persons</u></p> <p>Mr Brian Gascoyne was in attendance as Other Persons.</p>
<p>3.8 Oral representations</p>	<p>The Regulatory Officer addressed the Sub-Committee and outlined the main points with regards to the application.</p> <p><u>Applicant</u></p> <p>Mr Langford B Smith's addressed the Sub-Committee. The key points raised during his address were as follows:</p> <ul style="list-style-type: none"> • The Applicant had liaised with the Cambridgeshire Constabulary and had made suggestions in relation to the licensing conditions in order to reach a compromise; • Consideration to be given to reduce the proposed two hour extension to one hour, with the one hour difference to align with reduced shop opening hours; • There was no objection from the applicant over the stipulations made by the Authority; and • The applicant wished to retain the current licenced alcohol strength of

	<p>beer sales.</p> <p><u>Responsible Authority – Cambridgeshire Constabulary</u></p> <p>PC Graham Robinson addressed the Sub-Committee. The key points raised during his address were as follows:</p> <ul style="list-style-type: none"> • Agreements had not been reached with the Applicant over the proposed licence and that it was the Sub-Committees decision to agree the outcome of the applicants suggested compromise; • The current licence had run from Sunday to Thursday 8am until midnight and Friday and Saturday 8am – 2.00am; and • The applicant had been advised that it would be favourable to reduce the closing hours to midnight each night of the week in order to create less impact on residents. <p><u>Other Persons – Brian Gascoyne</u></p> <p>Mr Brian Gascoyne addressed the Sub-Committee. The key points raised during his address were as follows:</p> <ul style="list-style-type: none"> • There were 98 premises that had sold alcohol in the OP CAN DO area; and • Consideration should be given to reduce the number of premises selling alcohol and their opening times in the OP CAN DO area.
<p>3.9 Written representations and supplementary material taken into consideration</p>	<p><u>Applicant</u></p> <p>Consideration was given to the application Mr Ismail Akdogan and attached to the Sub-Committee report.</p> <p><u>Responsible Authorities</u></p> <p>Consideration was given to the written submissions attached to the Sub-Committee report from Cambridgeshire Constabulary, the Interim Director of Public Health, NHS Peterborough, the Planning Department and the Noise Pollution Team as Responsible Authorities.</p> <p><u>Ward Councillor</u></p> <p>Consideration was given to the written submission from Councillor Shearman, Ward Councillor for Park Ward</p> <p><u>Other Persons</u></p> <p>Consideration was given to the written submissions attached to the Sub-Committee report from list other persons.</p>
<p>3.10 Facts/Issues in dispute</p>	<p><u>Issue 1</u></p> <p>Whether the review application would further support the ‘Prevention of Crime and Disorder’ Licensing Objective.</p> <p><u>Issue 2</u></p> <p>Whether the review application would further support the ‘Prevention of</p>

	<p>Public Nuisance' Licensing Objective.</p> <p><u>Issue 3</u></p> <p>Whether the review application would further support the 'Protection of Public Safety' Licensing Objective.</p>
<p>4. Decision</p>	<p>The Sub-Committee listened to all the evidence put before it and also took into account the contents of the application and all representations and submissions made in relation to it. The Sub-Committee found as follows:-</p> <p>The premises lay within an area designated under a special policy therefore there was a rebuttable presumption not to grant the variation. To be successful, the applicant would need to demonstrate that they had sufficiently addressed the issues within the designated area detailed in the policy, in their operating schedule.</p> <p>The Sub-Committee been addressed on such issues as an increase in noise and waste pollution and public health associated with alcohol misuse.</p> <p>The Committee had considered the options available to it, which were:</p> <ul style="list-style-type: none"> • to vary the licence in the same terms as it was applied for; • to grant or vary the variation as applied for with or without conditions; and • to refuse the variation. <p>It was noted that the applicant was willing to reduce the hours of opening for the days in question and reduce the two hour increase, as applied for, by one hour.</p> <p>The Sub-Committee had been referred to the licensing policy incorporating the special policy and the government guidance at paragraphs 13.29 and 13.35 of the Licensing Act 2003.</p> <p>In introducing a special policy the licensing authority recognised that the designated area was saturated with such premises.</p> <p>The Sub-Committee had not believed that the operating schedule had addressed the issues within the special policy sufficiently enough to rebut the presumption not to grant, even with the proposed conditions and reduced hours of opening.</p> <p>The Sub-Committee's decision was therefore to refuse the application to vary the premises licence, at the premises known as Peterborough International Food Centre, 314-316 Lincoln Road, Peterborough, PE1 2ND.</p> <p>Any party in objection to the decision may appeal to the Peterborough Magistrates Court within 21 days of receiving this formal notice at:</p> <p>Peterborough Court House, Bridge Street, Peterborough, PE1 1ED. Tel No. 0845 3100575. There is a fee to pay.</p>

Chairman
1.00pm – 2.02pm

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Meeting of the Licensing Act 2003 Sub-Committee
 held at the Town Hall, Peterborough on Wednesday, 8 January 2014

RECORD OF DECISION

1. Apologies for Absence	There were no apologies for absence received.
2. Declarations of Interest	There were no declarations of interest.
3. Exempt Session	<p>Members of the Committee were asked to consider whether to hold the hearing in exempt session, which was in accordance with paragraph 1 and 7 of Schedule 12A of Part 1 of the Local Government Act 1972 in that it contained information relating to an individual and information relating to an action taken or to be taken in connection with the prevention or investigation or prosecution of crime.</p> <p>Resolved: The Committee unanimously agreed to discuss the application for a Personal Licence in public session.</p>
4. Application	Application of Personal Licence – Mr Akar Ahmed
4.1 Application Reference	MAU 068328
4.2 Sub-Committee Members	Councillor (Chairman) Thacker Councillor Saltmarsh Councillor Miners
4.3 Officers	Darren Dolby, Regulatory Officer – Licensing Colin Miles, Lawyer – Legal Advisor to the Sub-Committee Karen Dunleavy, Governance Officer – Clerk to the Sub-Committee
4.4 Applicant	Mr Akar Ahmed
4.5 Nature of Application	<p><u>Application Type</u></p> <p>Personal Licence</p> <p><u>Summary of Review Application</u></p> <p>In accordance with section 117 of the Licensing Act 2003, following the submission of an application for a Personal Licence from Mr Akar Ahmed, following a disclosure of a criminal offence a Responsible Authority, the Licensing Authority was required to hold a hearing.</p> <p>Following the criminal conviction disclosure by the Applicant, the Licensing Authority received a notice of objection to the granting of a Personal Licence (Section 120 (5) Licensing Act 2003) from the Chief of Police for Cambridgeshire Constabulary.</p> <p>A summary of the issues raised within the representations included:</p>

	<ul style="list-style-type: none"> • The Applicant had a conviction for a relevant offence (Schedule 4 of LA2003) for the possession of prohibited weapon (weapon for discharge of noxious gas); and • The offence was viewed particularly seriously by the Constabulary's Licensing Team and the conviction date of 28 January 2013 was relatively recent.
4.6 Licensing Objective(s) under which representations were made	1. The Prevention of Crime and Disorder
4.7 Parties/Representatives and witnesses present	<p><u>Applicant / Responsible Authority</u></p> <p>The Licensing Officer, who presented the case on behalf of the Licensing Authority.</p> <p><u>Responsible Authorities</u></p> <p>PC Grahame Robinson, who was present on behalf of Cambridgeshire Constabulary.</p> <p><u>Applicant / Representative</u></p> <p>Mr Akar Ahmed, the Applicant was in attendance and was not accompanied by a representative.</p>
4.8 Oral representations	<p>The Regulatory Officer addressed the Sub-Committee and outlined the main points with regards to the application.</p> <p><u>Responsible Authority</u></p> <p>Darren Dolby, addressed the Sub-Committee. The key points raised during his address, and following questions from the Sub-Committee were as follows:</p> <ul style="list-style-type: none"> • A person that sought a Personal Licence had a duty to provide information regarding any criminal offence relating to them as part of the application; • Following the criminal offence declaration, the Licensing Authority had a duty to inform the Police of the disclosure, in order for them to make representations to uphold the licensing objectives; • The applicant had been convicted of possessing a weapon; • The Police had objected to the grant of a Personal Licence for Mr Akar Ahmed; and • The Committee was asked to consider the application and undertake the actions deemed necessary to grant or not grant the licence. <p><u>Responsible Authority – Cambridgeshire Constabulary</u></p> <p>PC Robinson, addressed the Sub-Committee. The key points raised during his address, and following questions from the Sub-Committee included:</p>

	<ul style="list-style-type: none"> • The weapon ceased was similar to one carried by Police Officer namely pepper spray and was classed as a fire arm under part 6 Section 113 Schedule 4 of the Relevant Offences; • Mr Akar Ahmed applied for a Alcohol Personal Licence on 31 October 2013 and was legally bound to declare previous criminal convictions; • Mr Ahmed pleaded guilty to the charge and was convicted on 28 January 2013, of being in possession of a prohibited weapon (weapon for discharge of noxious liquid gas); • Under the Rehabilitation of Offenders Act 1974, the nature of the conviction, for adults over 18 must be declared up to 5 years; • Further enquiries with Lincolnshire Constabulary revealed the Mr Ahmed was named on the case file with a different name and date of birth to that on the application; and • Granting the licence would undermine the crime and prevention licensing objective. <p>1:24 pm At this point the applicant arrived at the meeting and was advised that the hearing was being held in public session.</p> <p><u>Applicant</u></p> <p>Mr Akar Ahmed addressed the Sub-Committee. The key points raised during his address, and following questions from the Sub-Committee, were as follows:</p> <ul style="list-style-type: none"> • The Applicant wished for the Committee to consider his application; • The Police had given an accurate account of the circumstances surrounding the criminal conviction, however the applicant stated that what he had done was wrong; • The Applicant had learnt his lesson and wished to be granted with the personal licence in order to get on with his life and that he was also making the application for his father; and • The Applicant did not recall how the gas weapon had become in his possession. The first time he was aware of the weapon, was when he had left the night club.
4.10 Written representations and supplementary material taken into consideration	<p><u>Applicant</u></p> <p>Consideration was given to the application for a Personal Licence attached to the Sub-Committee report.</p> <p><u>Responsible Authorities</u></p> <p>Consideration was given to the written submissions attached to the Sub-Committee report from Cambridgeshire Constabulary.</p>
4.11 Facts/Issues in dispute	<p><u>Issue 1</u></p> <p>Whether the review application would further support the 'Prevention of Crime and Disorder' Licensing Objective.</p>

5. Decision

The Sub-Committee listened to all the evidence put before it and also took into account the contents of the application and all representations and submissions made in relation to it. The Sub-Committee found as follows:

During its deliberations, the Sub-Committee considered the various options available, including:

The submissions made by the Police relating to their objections to the granting of the Personal Licence as applied.

The Police were concerned that the conviction dated 28 January 2013 was of a sufficiently serious nature and had been relatively recent, that the application underlined the licensing objective of the prevention of crime and disorder.

The applicant stated that he was unaware that he had in his possession the prohibited weapon.

He stated that he was applying for the licence on behalf of his father.

It was therefore, the Licensing Act 2003 Sub-Committee's decision to not grant the licence as applied for by Mr Akar Ahmed for the same reasons as stated by the Police.

The Committee believed that the serious offence committed undermined the licensing objective of the prevention of crime and disorder, given the recent date of conviction.

The applicant was advised that he could appeal to the Peterborough Magistrates Court within 21 days of receiving the formal decision notice.

Chairman
1:13– 1:57pm

Expedited Review, Licensing Act 2003 Sub-Committee
 undertaken Wednesday 11 March 2014

RECORD OF PROCEEDINGS*

***There is no requirement for a formal hearing of the Sub-Committee to take place to determine the question of interim steps and the determination may take place over the telephone or other 'remote means'. This expedited review was conducted with Members via email.**

1. Apologies for Absence	Not applicable.
2. Declarations of Interest	There were no declarations of interest.
3. Application	Expedited Review of Licence – Solstice/Radius, Northminster Road, Peterborough, PE1 1SQ
3.1 Application Reference	
3.2 Sub-Committee Members	Councillor Thacker (Chairman) Councillor Peach Councillor Saltmarsh
3.3 Officers	Darren Dolby, Regulatory Officer – Licensing Nigel Joseph, Lawyer – Legal Advisor to the Sub-Committee Karen S Dunleavy, Governance Officer – Clerk to the Sub-Committee
3.4 Applicant	Cambridgeshire Constabulary
3.5 Nature of Application	<p><u>Application Type</u></p> <p>Expedited review of existing premises licence.</p> <p><u>Summary of Expedited Review Application</u></p> <p>An Expedited Review was deemed necessary for the following reasons:</p> <ol style="list-style-type: none"> 1. A serious disorder took place which involved a member of the public on Sunday, 9 March between the hours of 2:30am and 2:50am; 2. It is the view of the police that there was a reluctance and ineffectiveness of the part of management to deal effectively with the current 'In House' door supervisors; 3. Issues of excessive use of force over the last 12 months, whereby Security Industry Authority (SIA) door supervisors utilised by the Designated Premises Supervisor (DPS) who were concerned in the disorder had used excessive force previously on customers; and 4. Lack of appropriate conditions on the premises licence that would effectively assist the DPS in promoting the Licensing objectives.
3.6 Licensing Objective(s) under which representations were made	1. The Prevention of Crime and Disorder

3.7 Parties/Representatives and witnesses present	Not applicable.
3.8 Pre-hearing considerations and any decisions taken by the Sub-Committee relating to ancillary matters	Not applicable.
3.9 Oral representations	Not applicable.
3.10 Written representations and supplementary material taken into consideration	<p><u>Responsible Authority – Cambridgeshire Constabulary</u></p> <p>Consideration was given to the application submitted by Cambridgeshire Constabulary and the certificate under Section 53A(1)(b) of the Licensing Act 2003.</p>
3.11 Facts/Issues in dispute	<p><u>Issue 1</u></p> <p>Whether the expedited review application would further support the 'Prevention of Crime and Disorder' Licensing Objective.</p>
4. Decision	<p>The Sub-Committee took account of the contents of the application and the certificate issued under Section 53A(1)(b) of the Licensing Act 2003. The Sub-Committee also considered all of the various options available and found as follows:</p> <p>The Sub-Committee considered representations made by the police contained within the application and certificate in support of the expedited review. The representation detailed an incident which took place on 9th March 2014 between the hours of 02:30am and 2:50am.</p> <p>The Sub-Committee considered whether in the light of the representations made by the police, if it was necessary to take interim steps to address the immediate problems with the premises.</p> <p>The Sub-committee considered paragraph 3 of the Home office guidance and the powers available to it under Section 53A of the Licensing Act 2003 namely:</p> <ul style="list-style-type: none"> • The modification of the conditions of the premises licence; • The exclusion of the sale of alcohol (or other licensable activities) from the scope of the licence; • The removal of the designated premises supervisor; and • The suspension of the licence. <p>The Sub-Committee considered that the interim step of modifying the conditions of the premises licence was necessary to prevent the likelihood of further serious disorder and that the hours of operation for licensable activities should be curtailed and that further conditions surrounding the management of door supervisors should be attached to the licence as recommended by the Police.</p> <p>The Sub Committee decided to implement the Police recommendation revoking the ability to employ an 'In House Door Supervisor Team', by imposing the following conditions onto the Premises Licence:</p> <ol style="list-style-type: none"> 1. All Licensable activity would cease at 02:00am;

2. All Security Industry Authority (SIA) registered door supervisors must be employed from a recognised and qualified SIA registered Door Supervisor Security Company that had been approved by the Licensing Authority;
3. A minimum of 8 SIA registered door supervisors would be employed at all times a licensable activity took place from 21:00 hours on each Friday and Saturday night. A minimum of two SIA door supervisors will be employed where capacity is expected to exceed 100 on any other night. They will be employed on the main access door and at strategic points around the venue to:
 - a. Prevent the admission of drunk and disorderly persons;
 - b. Maintain an orderly queue outside the venue;
 - c. Count those entering and leaving the premises to ensure building capacity was not breached;
 - d. Assist customers to leave the venue to ensure they leave in a quiet and orderly fashion;
 - e. To keep out excluded persons circulated via the NightSafe Pub Watch Scheme;
 - f. Search and exclude those persons suspected of carrying illegal drugs or offensive weapons; and
 - g. Maintain effective communication via City Link Radio, or other means with Peterborough CCTV or the Police when requesting assistance.
4. All door staff would be trained in the requirements of the Challenge 25 policy, the identification & recognition of drunks and the correct procedures to be followed when refusing service;
5. The premises licence holder and / or the designated premises supervisor would ensure door supervisors were properly briefed and trained to manage queues in a safe and efficient manner;
6. All door supervisors employed at the entrance / exit of the licensed premises would wear high visibility clothing and display their SIA badge in an arm badge holder;
7. All door staff engaged in searching persons (as a condition of entry) would be fully trained in the use of their powers to do so;
8. Where a licensed premises engaged in searching persons, the premises licence holder and / or designated premises supervisor would ensure that door supervisors of both sexes were on duty; and
9. The premises licence holder and / or designated premises supervisor would ensure that the following details for each door supervisor were contemporaneously entered into a bound register kept for that purpose :
 - Full Name
 - SIA badge number in full
 - The time they begun duty
 - The time they completed their duty
 - The full details of any agency through which they had been allocated
 - Work at the premises.
10. The premises licence holder and / or designated premises supervisor or in their absence another responsible person to keep an 'incident report register' in a bound book in which full details of all incidents were recorded. This would be completed as soon as possible and in any case no later than the close of business on the

	<p>day of the incident. The time and date when the register was completed, and by whom, was to form part of the entry. The register had to be kept on the premises at all times and would be produced to an authorised officer of the Licensing Authority or Police Officer (including any Licensing Police Community Support Officer) when required. The register should be retained for a minimum of 12 months; and</p> <p>11. All door supervisors would be capable of communicating instantly with one another by way of radio or other simultaneous system of communication.</p> <p>The decision could be appealed by the licensee, an appeal hearing to be held within 48 hours of receipt of representation.</p>
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Chairman
(timings not applicable)

Meeting of the Licensing Act 2003 Sub-Committee
 held at the Town Hall, Peterborough on Wednesday, 2 April 2014

RECORD OF DECISION

1. Apologies for Absence	There were no apologies for absence received.
2. Declarations of Interest	There were no declarations of interest.
3. Application	New Premises Licence – Tesco Ltd 140 Oundle Road
3.1 Application Reference	MAU 068867
3.2 Sub-Committee Members	Councillor (Chairman) Saltmarsh Councillor Kreling Councillor Jamil
3.3 Officers	Darren Dolby, Regulatory Officer – Licensing Colin Miles, Lawyer – Legal Advisor to the Sub-Committee Karen S Dunleavy, Governance Officer – Clerk to the Sub-Committee
3.4 Applicant	Tesco Stores Ltd, 140 Oundle Road, Peterborough, PE2 9PJ
3.5 Nature of Application	<p><u>Application Type</u></p> <p>Application for a new premises licence.</p> <p><u>Authorisations and Times Applied For</u></p> <ul style="list-style-type: none"> • Sale of alcohol for consumption off the premises Monday to Sunday – 6:00am to 11:00pm • Hours premises are open to the public Monday to Sunday – 6:00am to 11:00pm <p><u>Summary of New Premises Licence Application</u></p> <p>In accordance with the Licensing Act 2003, following the submission of an application for a new premises licence from Tesco Stores Ltd and representation, which had been received from 47 residents and one Ward Councillor, a Responsible Authority, the licensing authority was required to hold a hearing.</p> <p>A summary of the issues raised within the representations included:</p> <ul style="list-style-type: none"> • If granted, the licence would contribute to an increase in street drinking in the area; • If granted, the licence could lead to a rise in anti-social behaviour;

	<p>and</p> <ul style="list-style-type: none"> If granted, the licence would lead to an increase in noise and disturbance in the area.
3.6	<p>Licensing Objective(s) under which representations were made</p> <ol style="list-style-type: none"> The Prevention of Crime and Disorder The Protection of Children from Harm The Prevention of Public Nuisance The Protection of Public Safety
3.7	<p>Parties/Representatives and witnesses present</p> <p><u>Applicant</u></p> <p>Mr Paul Baylis, Mr Rymar and Mr Ramsey, who presented the case on behalf of Tesco's Stores Ltd.</p> <p>Ward Councillor</p> <p>Councillor Thulbourn, Ward Councillor for Fletton and Woodston.</p> <p><u>Other Persons</u></p> <p>Mrs Audrey Chalmers, Mr Trevor Armstrong, local residents, Pat Alford and Anita Rodcliffe the Grove Community Centre representatives.</p>
3.8	<p>Pre-hearing considerations and any decisions taken by the Sub-Committee relating to ancillary matters</p> <p>There were no pre-hearing considerations.</p>
3.9	<p>Oral representations</p> <p>The Regulatory Officer addressed the Sub-Committee and outlined the main points with regards to the application. The key points raised in his address included:</p> <ul style="list-style-type: none"> The premises had operated as a public house (The Boro Boro Bar and the Boys Head); The previous premises licence was surrendered by Star Pubs and Bars on 14 October 2014; There had been an application made by Tesco Stores Ltd, for the sale of alcohol between the hours of 6:00am and 11:00pm daily; and No objection had been received from the Responsible Authorities. <p>Representations against the application had been received from 47 local residents and one Ward Councillor, which highlighted a number of concerns if the premises licence should be granted.</p> <p><u>Applicant</u></p> <p>Craig Baylis, representative for Tesco Stores Ltd, addressed the Sub-Committee. The key points raised during his address, and following questions from the Sub-Committee were as follows:</p> <ul style="list-style-type: none"> The new store was due to open on 6 May 2014; Mr Rymar was the designated premises supervisor (DPS) and had experience in dealing with issues such as young people attempting to purchase alcohol; A number of experienced staff were to be employed at the 140

Oundle Road, Tesco Store Ltd;

- Tesco Stores Ltd took the sale of underage alcohol issue very seriously and had adopted the 'Think 25' initiative. Staff had been trained on awareness and would challenge those they felt could be under 25;
- Tesco Stores Ltd had a double check system in place for the 'Think 25' initiative, in that the till sale would prompt an alert once an alcohol item had been scanned. In addition, where self-serve tills were in place, these would automatically lock once the alcohol was scanned, and the customer would be unable to continue with the purchase until it was checked and verified by a trained member of staff;
- Tesco Stores Ltd actively involved police to visit their premises, with the offer to use the sanitary and refreshment facilities that were available for their staff;
- The DPS of the Tesco Store Ltd, Oundle Road would be responsible in managing the Tesco donation of £500 towards community projects and initiatives;
- A rogues gallery would be in place at the Oundle Road Tesco store in order for staff to identify problematic members of the public that were a public nuisance to the community;
- Once identified, street drinkers would not be permitted to enter the Oundle Road Tesco Store Ltd;
- Security staff would be in place on a full time basis for a period of two to three months or as long as necessary to assess the situation of problematic members of the public and deal with any issue that may arise in order to mitigate public nuisance and provide reassurance to residents; and
- The security staff employed would be experienced in dealing with public nuisance issues.

Ward Councillor – Councillor Thulbourn

Councillor Thulbourn, Ward Councillor for Fletton and Woodston, addressed the Sub-Committee. The key points raised in his address and responses to questions included:

- The issues being experienced in the area had not arisen by young people per se, but by a significant number of street drinkers;
- Street drinkers should be refused the sale of alcohol;
- Street drinkers had historically caused issues for church visitors, weddings and for the local school. The community had worked hard with the police over the past two years to eradicate and resolve the street drinking issues that had been experienced;
- It was felt that the Oundle Road Tesco Store would encourage the street drinkers to return to the area and trigger the historic issues experienced previously;
- There were concerns over the safety of children;
- It was felt that the proposed sale of alcohol hours from 6:00am to 11:00pm, would act as a magnet for street drinkers;
- Consideration should be given by the Committee to limit the strength of alcohol that should be on sale if the premises licence was to be granted to Tesco Stores Ltd, 140 Oundle Road; and
- Consideration should also be given by the Committee to restrict the sale of alcohol by Tesco Stores Ltd, 140 Oundle Road until 9:00pm.

Other Persons – Trevor Armstrong and Audrey Chalmers

Mr Trevor Armstrong and Audrey Chalmers, local residents addressed the Sub-Committee and responded to questions. The key points raised in their address and responses to questions included:

- There had been problems experienced previously when the premises had operated as the Boro Boro Bar. Visitors to the premises would sit on Mr Armstrong's fence to drink alcohol;
- There were 10 outlets offering the sale of alcohol along the Oundle Road route; and
- Tesco Store Ltd, 140 Oundle Road would prove to become a Trojan Horse for further stores with similar business;
- There was an uncertainty over why the police had not made representation against the application as they had worked hard with residents to resolve the public nuisance issues that had been experienced in the area;
- It was felt that the Council should support local residents of Oundle Road in order to avoid the public nuisance issues returning; and
- There had been a young person's hostel located on Oundle Road which supported the wellbeing of those young persons that suffered with drug and alcohol related problems and it was felt that granting the premises licence to the Oundle Road Tesco Store would provide them with increased opportunity to obtain alcohol.

Other Persons – Pat Alford and Mrs Radcliffe

Pat Alford, South Grove Community Centre employees, addressed the Sub-Committee and responded to questions. The key points raised in their address, and responses to questions included:

- Issues such as littering and defecating around the South Grove (SG) Community Centre had been created by street drinkers that frequented the area;
- The SG Community Centre employees would need to remove the rubbish and fowling that had been created around the building; and
- An outlet that offered the sale of alcohol from 6:00am would exacerbate the street drinkers addiction.

Summing Up

All parties were given the opportunity to summarise their submissions.

Applicant

Mr Baylis, the Applicant's representative (Tesco Stores Ltd) expressed that it had been helpful to learn about the issues of public nuisance that were experienced previously in the Oundle Road area and provided reassurance that the concerns raised by residents would be taken seriously. Furthermore, Mr Baylis advised that the Applicant wished to amend the application in order to change the start time of premises licence from 6:00am to 8:00am in order to help alleviate the concerns raised by local residents.

	<p>In addition, a meeting was requested by the representative of Tesco Store Ltd, 140 Oundle Road to be held between the store manager and Councillor Thulbourn in order to identify the issues that had been experienced in the area, in order to mitigate any future reoccurrence of public nuisance.</p>
<p>3.10 Written representations and supplementary material taken into consideration</p>	<p><u>Applicant</u></p> <p>Consideration was given to the application for a Premises Licence, attached to the Sub-Committee report.</p> <p><u>Ward Councillor</u></p> <p>Consideration was given to the written submission attached to the Sub-Committee report from Ward Councillor Thulbourn.</p> <p><u>Other Persons</u></p> <p>Consideration was given to the written submissions attached to the Sub-Committee report from the 47 resident representations.</p>
<p>3.11 Facts/Issues in dispute</p>	<p><u>Issue 1</u></p> <p>Whether the premises licence application would further support the 'Prevention of Crime and Disorder' Licensing Objective.</p> <p><u>Issue 2</u></p> <p>Whether the premises licence application would further support the 'Protection of Children from Harm' Licensing Objective.</p> <p><u>Issue 3</u></p> <p>Whether the premises licence application would further support the 'Prevention of Public Nuisance' Licensing Objective.</p> <p><u>Issue 4</u></p> <p>Whether the premises licence application would further support the 'Protection of Public Safety' Licensing Objective.</p>
<p>4. Decision</p>	<p>The Sub-Committee listened to all the evidence put before it and also took into account the contents of the application and all representations and submissions made in relation to it. The Sub-Committee found as follows:-</p> <p>During its deliberations, the Sub-Committee considered the following:</p> <ul style="list-style-type: none"> • The application for a premises licence relating to Tesco Stores Ltd, at 140 Oundle Road, Peterborough; • The concerns raised by residents and the Ward Councillor regarding the licence exacerbating the noise and public nuisance in the area and other issues associated with street drinkers; • Concerns raised regarding the position of the premises near a school;

- The contents of the 47 identical letters received from concerned residents; and
- That no representations had been made by any responsible authority.

The Sub-Committee was satisfied that the operating schedule was sufficient to alleviate any perceived problems associated with the premises in the future.

The applicant offered, via their representative to reduce the hours that alcohol would be sold, with a start time of 8:00am. The Sub-Committee welcomed, accepted and directed the application to be amended accordingly.

The Sub-Committee disregarded irrelevant factors not evidenced before them and perceived problems that may be associated with the premises.

The Sub-Committee therefore, decided to grant the application as applied for with the amended times for the sale of alcohol as follows:

- **Sale of alcohol for consumption off the premises**

Monday to Sunday – 8:00am to 11:00pm

The Sub-Committee advised that any party in objection to the decision could appeal to the Peterborough Magistrates Court within 21 days of receiving the formal decision notice.

Chairman
Start 9:30am – Finish 10:58pm

Meeting of the Licensing Act 2003 Sub-Committee
 held at the Town Hall, Peterborough on Thursday, 17 April 2014

RECORD OF PROCEEDINGS

1. Apologies for Absence	There were no apologies for absence.
2. Declarations of Interest	Councillors Saltmarsh and Peach declared that Andrew Cave, the Licence Holder representative, was known to them, however there had been no prior discussions undertaken in relation to the review hearing.
3. Application	Expedited Summary Review of Premises Licence – The Solstice / Radius, Northminster, Peterborough, PE1 1YN
3.1 Application Reference	MAU 069060
3.2 Sub-Committee Members	Councillor (Chairman) Thacker Councillor Saltmarsh Councillor Peach
3.3 Officers	Darren Dolby, Regulatory Officer – Licensing Nigel Joseph, Lawyer – Legal Advisor to the Sub-Committee Karen S Dunleavy, Governance Officer – Clerk to the Sub-Committee Philippa Turvey, Senior Governance Officer
3.4 Applicant	Cambridgeshire Constabulary
3.5 Nature of Application	<p><u>Application Type</u></p> <p>Expedited Summary Review of Premises Licence</p> <p><u>Summary of Review Application</u></p> <p>In accordance with section 53A of the Licensing Act 2003, following the submission for a summary review of the premises and the certificate signed by a superintendent from Cambridgeshire Constabulary, the licensing authority was required to hold a hearing.</p> <p>A summary of the issues raised within the representations included an incident of serious disorder occurring on the 9th March 2014, involving a member of the public and four Security Industry Authority (SIA) registered door supervisors from the Solstice / Radius.</p> <p>The mediated conditions included:</p> <ol style="list-style-type: none"> 1. Alcohol sales will cease at 02:30am, and all other Licensable activity will cease at 03:00am. No person will be allowed access into the venue after 02:00am. 2. The premises licence holder or designated premises licence holder

shall ensure that all bar staff, supervisors and managers are trained in the legality and procedure of alcohol sales using a training package approved by the Licensing Authority and Police, prior to undertaking the sale of alcohol. Refresher training should be undertaken every 3 months or whenever licensing legislation changes. Training shall be signed and documented and training records will be kept on the premises either in paper or electronic form. These records should be made available immediately to a Licensing Authority Officer or Police Officer (including PCSO) upon request. The documentation relating to training should extend back to a period of 18 months and should specify the time, date and details of both the person providing the training and receiving the training.

3. All SIA Registered door supervisors must be employed from a recognised and qualified SIA registered Door Supervisor Security Company that is approved by the Licensing Authority.
4. A minimum of 8 SIA registered door supervisors, including at least one female door supervisor, will be employed at all times a licensable activity takes place from 22:00 hours on each Friday and Saturday night. A minimum of 2 SIA door supervisors will be employed where capacity is expected to exceed 100 on any other night. They will be employed on the main access door and at strategic points around the venue to:
 - a) Prevent the admission of drunk and disorderly persons.
 - b) Maintain an orderly queue outside the venue
 - c) Count those entering and leaving the premises to ensure building capacity is not breached.
 - d) Assist customers leaving the venue to ensure they leave in a quiet and orderly fashion.
 - e) To keep out excluded persons circulated via the NightSafe Pub Watch Scheme.
 - f) Search and exclude those persons suspected of carrying illegal drugs or offensive weapons.
 - g) Maintain effective communication via City Link Radio, or other means with Peterborough CCTV or the Police when requesting assistance.
5. All door staff shall be trained in the requirements of the Challenge 25 policy, the identification & recognition of drunks and the correct procedures to be followed when refusing service.
6. The premises licence holder and / or the designated premises supervisor shall ensure door supervisors are properly briefed and trained to manage queues in a safe and efficient manner.
7. All door supervisors employed at the entrance / exit of the licensed premises will wear and display their SIA badge in an arm badge holder.
8. All door staff engaged in searching persons (as a condition of entry) shall be fully trained in the use of their powers to do so.
9. The premises licence holder and / or designated premises supervisor

	<p>shall ensure that the following details for each door supervisor are contemporaneously entered into a bound register kept for that purpose :</p> <p>Full Name SIA badge number in full The time they begun duty The time they completed their duty The full details of any agency through which they have been allocated work at the premises.</p> <p>10. The premises licence holder and / or designated premises supervisor or in their absence another responsible person to keep an 'incident report register' in a bound book, or by electronic means, in which full details of all incidents are recorded. This shall be completed as soon as possible and in any case no later than the close of business on the day of the incident. The time and date when the register was completed, and by whom, is to form part of the entry. The register is to be kept on the premises at all times and shall be produced to an authorised officer of the Licensing Authority or Police Officer (inc any Licensing PCSO) when required. The register should be retained for a minimum of 12 months.</p> <p>11. All door supervisors shall be capable of communicating instantly with one another by way of radio or other simultaneous system of communication.</p>
3.6 Licensing Objective(s) under which representations were made	1. The Prevention of Crime and Disorder
3.7 Parties/Representatives and witnesses present	<p><u>Applicant</u></p> <p>Police Constable Grahame Robinson, Cambridgeshire Constabulary.</p> <p><u>Licensee / Representative</u></p> <p>Andrew Cave, Solicitor, Licensee Representative Michael Boyle, Premises Owner, Licensee Shaun Boyle, Premises Owner, Licensee Kevin Jeffrey, Designated Premises Supervisor</p>
3.8 Pre-hearing considerations and any decisions taken by the Sub-Committee relating to ancillary matters	There were no pre-hearing considerations.

<p>3.9 Oral representations</p>	<p>The Regulatory Officer addressed the Sub-Committee and outlined the main points with regards to the application. He explained that mediation had been ongoing and revised hours and conditions had been agreed by all parties. He proposed that the Committee accept the mediated terms.</p> <p><u>Applicant</u></p> <p>PC Robinson addressed the Sub-Committee and commended Solstice management for working with the police and taking positive steps forward.</p> <p><u>Licensee's Representative</u></p> <p>Mr Cave recognised the serious nature of the incident in question and explained that the Solstice / Radius wanted to continue to work with the police and licensing authority in the future. In collaboration with the police and licensing authority a new course for bar staff had been devised with the assistance of the new door supervisors to recognise customers who may be causing problems.</p> <p>In response to a question Mr Cave identified that a return to previous licensed hours had not been applied for as a result of the serious nature of the incident. It was anticipated that an application for an extension of licensed hours would be made at some point in the future.</p> <p>PC Robinson commented that ceasing the sale of alcohol at 2:30am was considered appropriate by the police for an interim period to aid a natural dispersion of customers.</p> <p><u>Summing Up</u></p> <p>All parties were given the opportunity to summarise their submissions and each expressed their hope that the mediated terms would be accepted.</p>
<p>3.10 Written representations and supplementary material taken into consideration</p>	<p>None were received.</p>
<p>4. Decision</p>	<p>The Sub-Committee listened to all the evidence put before it and also took into account the contents of the application and all representations and submissions made in relation to it. The Sub-Committee found as follows:-</p> <p>The interim steps had appeared to alleviate the initial concerns of the relevant authorities and that had been confirmed by further mediation. Given the endorsement of all the relevant authorities for the mediated conditions it was the Committees' decision to agree to the modification of the premises licence in the mediated terms.</p> <p>A full decision notice with reasons would be sent to all parties within five working days.</p>

Chairman
1:30pm –2:25pm

Meeting of the Licensing Act 2003 Sub-Committee
 held at the Town Hall, Peterborough on Tuesday, 20 May 2014

RECORD OF PROCEEDINGS

1. Apologies for Absence	There were no apologies for absence received.
2. Declarations of Interest	There were no declarations of interest.
3. Application	New Premises Licence – Little Europe, 715 Lincoln Road, Peterborough, PE1 3HD
3.1 Application Reference	069186
3.2 Sub-Committee Members	Councillor (Chairman) Thacker Councillor Saltmarsh Councillor Kreling
3.3 Officers	Darren Dolby, Regulatory Officer – Licensing Colin Miles, Lawyer – Legal Advisor to the Sub-Committee Philippa Turvey, Senior Governance Officer – Clerk to the Sub-Committee
3.4 Applicant	Mr Aidas Mackauskas
3.5 Nature of Application	<p><u>Application Type</u></p> <p>Application for a new premises licence.</p> <p><u>Authorisations and Times Applied For</u></p> <ul style="list-style-type: none"> • Sale of alcohol for consumption off the premises <p style="margin-left: 40px;">Monday to Saturday – 9:00am to 9:00pm Sunday – 10:00am to 8:00pm</p> <ul style="list-style-type: none"> • Hours premises are open to the public <p style="margin-left: 40px;">Monday to Saturday – 9:00am to 9:00pm Sunday – 10:00am to 8:00pm</p> <p><u>Summary of New Premises Licence Application</u></p> <p>In accordance with the Licensing Act 2003, following the submission of an application for a new premises licence for Little Europe, 715 Lincoln Road, Peterborough, PE1 3HD, which had been received from a Residents' Association and four Responsible Authorities, the licensing authority was required to hold a hearing.</p> <p>A summary of the issues raised within the representations included:</p>

	<ul style="list-style-type: none"> • Detriment to the ongoing partnership working in place to reduce anti-social behaviour and violent crime within the area; and • In 'Op Can-do' area which is now subject to a special 'cumulative impact policy'.
3.6	<p>Licensing Objective(s) under which representations were made</p> <ol style="list-style-type: none"> 1. The Prevention of Crime and Disorder 2. The Protection of Children from Harm 3. The Prevention of Public Nuisance 4. The Protection of Public Safety
3.7	<p>Parties/Representatives and witnesses present</p> <p><u>The Licensing Authority</u></p> <p>The Licensing Officer, who presented the case on behalf of the Licensing Authority.</p> <p><u>Responsible Authorities</u></p> <p>Grahame Robinson, Cambridgeshire Constabulary</p> <p>Karen Woods, Trading Standards</p> <p><u>Other Persons</u></p> <p>Brian Gascoyne, Chairman of the Millfield and New England Regeneration Partnership</p>
3.8	<p>Pre-hearing considerations and any decisions taken by the Sub-Committee relating to ancillary matters</p> <p>There were no pre-hearing considerations.</p>
3.9	<p>Oral representations</p> <p>The Regulatory Officer addressed the Sub-Committee and outlined the main points with regards to the application. The key points raised in his address included:</p> <ul style="list-style-type: none"> • Letters had been received from the Applicant's Agenda, Mr Rocha, indicating that all the conditions proposed by the Responsible Authorities had been agreed to by the Applicant. • There was a rebuttable presumption that the application be refused unless it can be demonstrated that the operation of the premises will not add to the cumulative impact already being experienced. • The Applicant had requested that the meeting be adjourned, as neither the Applicant nor the Agent could be present at the meeting. The Agent had previously confirmed his intention to attend the meeting. <p>The Sub-Committee discussed whether it was appropriate to continue with the hearing as nobody was present to represent the Applicant and the Applicant believed they had not received sufficient notice of the hearing. The Sub-Committee agreed that the hearing would continue as the Applicant had the opportunity to send a representative in his stead. It was determined that sufficient notice had been provided.</p> <p>The Chairman asked if any of the Responsible Authorities or other persons had anything to add to their written representations. None wished to submit</p>

	anything further to the Committee.
3.10 Written representations and supplementary material taken into consideration	<p><u>Applicant</u></p> <p>Consideration was given to the application for a Premises Licence, attached to the Sub-Committee report.</p> <p><u>Responsible Authorities</u></p> <p>Consideration was given to the written submission attached to the Sub-Committee report from four Responsible Authorities.</p> <p><u>Other Persons</u></p> <p>Consideration was given to the written submissions attached to the Sub-Committee report from the Residents' Association.</p>
3.11 Facts/Issues in dispute	<p><u>Issue 1</u></p> <p>Whether the premises licence application would further support the 'Prevention of Crime and Disorder' Licensing Objective.</p> <p><u>Issue 2</u></p> <p>Whether the premises licence application would further support the 'Protection of Children from Harm' Licensing Objective.</p> <p><u>Issue 3</u></p> <p>Whether the premises licence application would further support the 'Prevention of Public Nuisance' Licensing Objective.</p> <p><u>Issue 4</u></p> <p>Whether the premises licence application would further support the 'Protection of Public Safety' Licensing Objective.</p>
4. Decision	<p>The Sub-Committee listened to all the evidence put before it and also took into account the contents of the application and all representations and submissions made in relation to it. The Sub-Committee found as follows:-</p> <p>During its deliberations, the Sub-Committee considered the following:</p> <ul style="list-style-type: none"> • Our own Statement of Licensing Policy at paragraph 11; • The Government guidance at paragraph 13.29 and 13.30; • The representation from the Police and from the Licensing Authority; and • The operating schedule within the application. <p>The Sub-Committee therefore, decided to reject the application for a licence for the premises, known as Little Europe, 715 Lincoln Road, Peterborough.</p>

	The Sub-Committee advised that any party in objection to the decision could appeal to the Peterborough Magistrates Court within 21 days of receiving the formal decision notice.
5. Application	New Premises Licence – Centre Café, 187a Lincoln Road, Peterborough, PE1 2UN
5.1 Application Reference	069164
5.2 Sub-Committee Members	Councillor (Chairman) Thacker Councillor Saltmarsh Councillor Kreling
5.3 Officers	Darren Dolby, Regulatory Officer – Licensing Colin Miles, Lawyer – Legal Advisor to the Sub-Committee Philippa Turvey, Senior Governance Officer – Clerk to the Sub-Committee
5.4 Applicant	Mr Usman Abu Bakar Iftickhar
5.5 Nature of Application	<p><u>Application Type</u></p> <p>Application for a new premises licence.</p> <p><u>Authorisations and Times Applied For</u></p> <ul style="list-style-type: none"> • Sale of alcohol for consumption off the premises Monday to Sunday – 12 (Noon) to 10:30pm • Hours premises are open to the public Monday to Sunday – 12 (Noon) to 10:30pm <p><u>Summary of New Premises Licence Application</u></p> <p>In accordance with the Licensing Act 2003, following the submission of an application for a new premises licence for Centre Café, 187a Lincoln Road, Peterborough, PE1 2UN, which had been received from two Responsible Authorities, the licensing authority was required to hold a hearing.</p> <p>A summary of the issues raised within the representations included:</p> <ul style="list-style-type: none"> • The application was for a premises in the ‘Op Can-do’ area, which is now subject to a special ‘cumulative impact policy’; • The Operating Schedule conditions did not sufficiently address the issues of the historic problems of the location and the surrounding area; and • If granted there was concern that the initial ‘small’ licensed premises would evolve in to large capacity functions taking place in an upstairs room which can be accessed from the café.

5.6 Licensing Objective(s) under which representations were made	1. The Prevention of Crime and Disorder 2. The Protection of Children from Harm 3. The Prevention of Public Nuisance 4. The Protection of Public Safety
5.7 Parties/Representatives and witnesses present	<p><u>The Licensing Authority</u></p> <p>The Licensing Officer, who presented the case on behalf of the Licensing Authority.</p> <p><u>Responsible Authorities</u></p> <p>Grahame Robinson, Cambridgeshire Constabulary</p> <p><u>Applicant</u></p> <p>Mr Usman Abu Bakar Iftikhar, the Applicant, and Mr Langford Smith, the Applicant's Representative.</p>
5.8 Pre-hearing considerations and any decisions taken by the Sub-Committee relating to ancillary matters	There were no pre-hearing considerations.
5.9 Oral representations	<p>The Regulatory Officer addressed the Sub-Committee and outlined the main points with regards to the application. The key points raised in his address included:</p> <ul style="list-style-type: none"> • The application was for on premises sales only; • Mediation had taken place, with additional conditions proposed by the applicant set out in section 7 of the report. However mediation had not, ultimately, been successful. <p><u>Applicant</u></p> <p>Langford Smith, representative for Mr Iftikhar, addressed the Sub-Committee. The key points raised during his address, and following questions from the Sub-Committee were as follows:</p> <ul style="list-style-type: none"> • The Conditions proposed by the police were believed to be acceptable; • A 'minimum meal' rule was proposed to ensure that a certain amount of food be purchased in order to allow alcohol to be purchased as well; • As the main concern of those objecting appeared to be the potential for use of the upstairs 'snooker room', a rule would be imposed that all alcohol purchased would be consumed on the premises or otherwise abandoned; • No objection was raised to regular inspections from the Council, without appointment; • The premise had a capacity for 20, however it was believed that in practice 15 people could be catered for; and • The upstairs could be only be accessed through the café, although there was also a fire escape from the upstairs room to outside; • Mr Iftikhar had been running the premises for approximately 2

	<p>months.</p> <p><u>Responsible Authorities</u></p> <p>Mr Grahame Robinson, Cambridgeshire Constabulary, addressed the Sub-Committee. The key points raised during his address, and following questions from the Sub-Committee were as follows:</p> <ul style="list-style-type: none"> • He had previously seen a plan of the premises, he was not sure of the location of the entrances to the café. He did, however, believe that a 20 person capacity was acceptable; • He was concerned that the upstairs area of the building would be incorporated into the business, but would deal with such expansion plans as and when they developed; and • He couldn't see evidence of where the 'Op Can-do' issues had been addressed. • If the application were to be granted he would like to see an official plan with conditions to restrict the sale and consumption of alcohol limited to only that area. <p>The meeting was adjourned for fifteen minutes in order to obtain plans of the application premises.</p> <p><u>Summing Up</u></p> <p>All parties were given the opportunity to summarise their submissions.</p> <p><u>Applicant</u></p> <p>Mr Langford Smith believed the café would be an asset to the community and fully accepted the suggested restriction on alcohol in the upstairs room.</p> <p><u>Licensing Authority</u></p> <p>The Regulatory Officer reminded the Sub-Committee that the application premise fell within the 'Op Can-do' area and that the application only related to the downstairs area only.</p> <p>It was clarified that a temporary even licence could be applied for, for the upstairs room and that this would be considered by the responsible authorities.</p>
<p>5.10 Written representations and supplementary material taken into consideration</p>	<p><u>Applicant</u></p> <p>Consideration was given to the application for a Premises Licence, attached to the Sub-Committee report.</p> <p><u>Responsible Authorities</u></p> <p>Consideration was given to the written submission attached to the Sub-Committee report from four Responsible Authorities.</p>

<p>5.11 Facts/Issues in dispute</p>	<p><u>Issue 1</u></p> <p>Whether the premises licence application would further support the 'Prevention of Crime and Disorder' Licensing Objective.</p> <p><u>Issue 2</u></p> <p>Whether the premises licence application would further support the 'Protection of Children from Harm' Licensing Objective.</p> <p><u>Issue 3</u></p> <p>Whether the premises licence application would further support the 'Prevention of Public Nuisance' Licensing Objective.</p> <p><u>Issue 4</u></p> <p>Whether the premises licence application would further support the 'Protection of Public Safety' Licensing Objective.</p>
<p>6. Decision</p>	<p>The Sub-Committee listened to all the evidence put before it and also took into account the contents of the application and all representations and submissions made in relation to it. The Sub-Committee found as follows:-</p> <p>During its deliberations, the Sub-Committee considered the following:</p> <ul style="list-style-type: none"> • Our own Statement of Licensing Policy at paragraph 11; • The Government guidance at paragraph 13.29 and 13.30; and • The conditions forwarded by the police and those by the Applicant. <p>The Sub-Committee therefore, decided to grant the licence for the premises, known as Centre Café, 187a Lincoln Road, Peterborough, as applied for subject to the adoption of all the conditions put forward by the police and the Applicant, with the police conditions taking precedence where there is conflict and avoiding any duplication.</p> <p>The 'minimum meal' condition put forward by the Applicant was not agreed as the Sub-Committee felt this would be too difficult to enforce in this type of establishment.</p> <p>The licence was for the downstairs area alone as shown on the plan for the premises.</p> <p>The Sub-Committee advised that any party in objection to the decision could appeal to the Peterborough Magistrates Court within 21 days of receiving the formal decision notice.</p>

Chairman Cllr Thacker
Start 10:00am – 1:00pm

Meeting of the Licensing Act 2003 Sub-Committee
 held at the Town Hall, Peterborough on Thursday, 26 June 2014

RECORD OF PROCEEDINGS

1. Apologies for Absence	There were no apologies for absence received.
2. Declarations of Interest	There were no declarations of interest.
3. Application	New Premises Licence – General Store, 48 Oundle Road, Peterborough
3.1 Application Reference	069399
3.2 Sub-Committee Members	Councillor (Chairman) Thacker Councillor Saltmarsh Councillor Khan
3.3 Officers	Darren Dolby, Regulatory Officer – Licensing Nigel Joseph, Lawyer – Legal Advisor to the Sub-Committee Philippa Turvey, Senior Governance Officer – Clerk to the Sub-Committee
3.4 Applicant	Mr Adem Xhemajli
3.5 Nature of Application	<p><u>Application Type</u></p> <p>Application for a new premises licence.</p> <p><u>Authorisations and Times Applied For</u></p> <ul style="list-style-type: none"> • Sale of alcohol for consumption off the premises <p style="margin-left: 40px;">Sunday to Wednesday – 9:00am to 9:00pm Thursday to Saturday – 9:00am to 11:00pm</p> • Hours premises are open to the public <p style="margin-left: 40px;">Sunday to Wednesday – 9:00am to 9:00pm Thursday to Saturday – 9:00am to 11:00pm</p> <p><u>Summary of New Premises Licence Application</u></p> <p>In accordance with the Licensing Act 2003, following the submission of an application for a new premises licence for General Store, 48 Oundle Road, Peterborough, which had been received from a Ward Councillor and local residents the Licensing Authority was required to hold a hearing.</p> <p>A summary of the issues raised within the representations included:</p> <ul style="list-style-type: none"> • The already high level of off-licensed premises in the surrounding area, and

	<ul style="list-style-type: none"> The concern that the sale of alcohol at the hours applied for would increase the prevalence of street drinking in the area.
3.6	<p>Licensing Objective(s) under which representations were made</p> <ol style="list-style-type: none"> 1. The Prevention of Crime and Disorder 2. The Protection of Children from Harm 3. The Prevention of Public Nuisance 4. The Protection of Public Safety
3.7	<p>Parties/Representatives and witnesses present</p> <p><u>The Licensing Authority</u></p> <p>The Regulatory Officer, who presented the case on behalf of the Licensing Authority.</p> <p><u>Applicant</u></p> <p>The Applicant, Mr Adem Xhemajli and the Applicant's Representative, Miss Claire Trolove of Roythornes Solicitors</p> <p><u>Ward Councillor</u></p> <p>Councillor Thulbourn</p> <p><u>Other Persons</u></p> <p>Miss Avril Lavender and Mrs Creed.</p>
3.8	<p>Pre-hearing considerations and any decisions taken by the Sub-Committee relating to ancillary matters</p> <p>There were no pre-hearing considerations.</p>
3.9	<p>Oral representations</p> <p>The Regulatory Officer addressed the Sub-Committee and outlined the main points with regards to the application. The key points raised in his address included the hours applied for being from 9:00am to 9:00pm, Sunday to Wednesday and 9:00am to 11:00pm, Thursday to Saturday.</p> <p><u>Applicant</u></p> <p>Claire Trolove, representative for Adem Xhemajli, addressed the Sub-Committee. The key points raised during her address, and following questions from the Sub-Committee were as follows:</p> <ul style="list-style-type: none"> Her client had taken advantage of a gap in the market to cater for demand for eastern European food and drink. The amount of alcohol sold would not be significant. CCTV would be installed to help promote public safety, prevent crime and disorder and protect staff. Signage would be displayed requiring patrons who looked under 25 to present photo identification and notifying patrons that litter should be placed in bins. All relevant fire and safety regulations would be adhered to. Staff would be trained on how to deal with challenging situations. The current business attracted an amount of traffic and the increase anticipated if the licence were to be granted was negligible. Her client wanted to run his shop in a nice area and did not want to

contribute to anti-social behaviour. It was not expected that individuals would gather at the shop front, as this was small in area.

- The commercial demand for the shop was part of her client's risk in setting up business and was not relevant to the licence application.

The Regulatory Officer advised, in response to a question, that any condition relating to CCTV would have to be enforceable and workable.

It was clarified that the proposed DPS had taken all the relevant exams but did not yet have her licence. In this instance the premises licence could still be granted, though no alcohol could be sold until the DPS had their personal licence granted.

Ward Councillor

Councillor Thulbourn, addressed the Sub-Committee. The key points raised during his address, and following questions from the Sub-Committee were as follows:

- A large amount of work had been undertaken by the community, working with the police, to improve upon the previous problems with street drinking in the area.
- It was suggested that the proposals would attract the street drinkers back and it appeared that the area was being punished for success.
- It was believed that this licence would be the 'saturation point' for off-licensed premises.
- In response to questions regarding the lack of objection from the police or local community groups the Ward Councillor said the police had raised concerns and that community groups had given up.

Other Persons

Miss Avril Lavender, addressed the Sub-Committee. The key points raised during her address, and following questions from the Sub-Committee were as follows:

- She could not identify any need for the premises, as there were plenty of business already catering to demand.
- It was believed that the situation of off-licence saturation needed to be addressed before it reached tipping point.
- There was very little parking provided in the area and litter was already a problem for residents.
- It was the wrong shop in the wrong location.

Mrs Creed, addressed the Sub-Committee. The key points raised during her address, and following questions from the Sub-Committee were as follows:

- The opening hours until 11:00pm were unnecessary and excessive.
- The area no longer catered for the whole community, with too many off-licences in the vicinity.
- Anti-social behaviour caused by late night drinking gave the area an intimidating feel.

Summing Up

	<p>All parties were given the opportunity to summarise their submissions.</p> <p>Applicant's Representative</p> <p>Miss Trolove explained that her client wished his business to succeed and was invested in the community, and that he would work with the Council on any relevant matters. She suggested that it would be inappropriate to expect her client to be responsible for the actions of third parties once they leave the premises.</p> <p>Ward Councillor</p> <p>Councillor Thulbourn clarified that he would be happy to see the shop succeed, but without the selling of alcohol. He suggested that if alcohol was to be sold, it should be done so at more reasonable hours. He believed the application would impact on disorder.</p> <p>Other Persons – Avril Lavender</p> <p>Ms Lavender reiterated that she did not believe there was a need for such a shop in the vicinity.</p> <p>Other Persons – Mrs Creed</p> <p>Mrs Creed restated her concerns regarding anti-social behaviour outside the shop.</p>
<p>3.10 Written representations and supplementary material taken into consideration</p>	<p><u>Applicant</u></p> <p>Consideration was given to the application for a Premises Licence, attached to the Sub-Committee report.</p> <p><u>Ward Councillor</u></p> <p>Consideration was given to the written submission attached to the Sub-Committee report from four Responsible Authorities.</p> <p><u>Other Persons</u></p> <p>Consideration was given to the written submissions attached to the Sub-Committee report from the Residents' Association.</p>
<p>3.11 Facts/Issues in dispute</p>	<p><u>Issue 1</u></p> <p>Whether the premises licence application would further support the 'Prevention of Crime and Disorder' Licensing Objective.</p> <p><u>Issue 2</u></p> <p>Whether the premises licence application would further support the 'Protection of Children from Harm' Licensing Objective.</p> <p><u>Issue 3</u></p>

	<p>Whether the premises licence application would further support the 'Prevention of Public Nuisance' Licensing Objective.</p> <p><u>Issue 4</u></p> <p>Whether the premises licence application would further support the 'Protection of Public Safety' Licensing Objective.</p>
4. Decision	<p>The Sub-Committee listened to all the evidence put before it and also took into account the contents of the application and all representations and submissions made in relation to it. The Sub-Committee found as follows:-</p> <p>During its deliberations, the Sub-Committee considered the following:</p> <ul style="list-style-type: none"> • The representations from the Ward Councillor and residents, and the absence of representations from any Responsible Authorities. • That the premises should not be held responsible for the behaviour of patrons once they left the shop. • That the commercial demand for the shop was not a relevant consideration. • The premises was not located in the Operation Can-do area, however arguments in relation to negative cumulative impact could be considered. <p>The Sub-Committee therefore, decided to grant the application for a licence for the premises, known as General Store, 48 Oundle Road, Peterborough.</p> <p>It was suggested that, if the community remained concerned about the licences in the area they may wish to investigate whether a special policy on cumulative impact could be employed.</p> <p>The Sub-Committee advised that any party in objection to the decision could appeal to the Peterborough Magistrates Court within 21 days of receiving the formal decision notice.</p>

Chairman Cllr Thacker M.B.E
Start 1:30pm – 2:40pm

Meeting of the Licensing Act 2003 Sub-Committee
 held at the Town Hall, Peterborough on Monday, 30 July 2014

RECORD OF PROCEEDINGS

1. Apologies for Absence	There were no apologies for absence received.
2. Declarations of Interest	There were no declarations of interest.
3. Application	Review of Premises Licence – Best Deli, 381 Lincoln Road
3.1 Application Reference	069586
3.2 Sub-Committee Members	Councillor Thacker (Chairman) Councillor Hiller Councillor Davidson
3.3 Officers	Darren Dolby, Regulatory Officer – Licensing Philippa Turvey, Senior Governance Officer – Clerk to the Sub-Committee
3.4 Applicant	Trading Standards
3.5 Nature of Application	<p><u>Application Type</u></p> <p>Review of existing Premises Licences.</p> <p><u>Summary of Review Application</u></p> <p>In accordance with section 51 of the Licensing Act 2003, following the submission of an application to review the premises licence from Trading Standards, a Responsible Authority, the Licensing Authority was required to hold a hearing.</p> <p>The application to review, served by Trading Standards, was received on 11 June 2014.</p> <p>A representation in support of the review had been received from Cambridgeshire Constabulary.</p> <p>A summary of the issues raised within the representations included a seizure by Trading Standards to clamp down on the illicit tobacco and alcohol trade.</p>
3.6 Licensing Objective(s) under which representations were made	1. Prevention of Crime and Disorder
3.7 Parties/Representatives and witnesses present	<p><u>Applicant / Responsible Authority</u></p> <p>Karen Woods, who presented the case on behalf of Trading Standards.</p>

	<p><u>Responsible Authorities</u></p> <p>PCSO Nic Petruzzello and Sergeant Hayley Richardson, who were present on behalf of Cambridgeshire Constabulary.</p> <p><u>Licensee / Representative</u></p> <p>Mr Mansor Azher, the Licence Holder. The Licensee did not have a representative.</p>
<p>3.8 Written representations and supplementary material taken into consideration</p>	<p><u>Applicant / Responsible Authority – Trading Standards</u></p> <p>Consideration was given to the application submitted by Trading Standards.</p> <p><u>Responsible Authority – Cambridgeshire Constabulary</u></p> <p>Consideration was given to the written submissions attached to the Sub-Committee report from Cambridgeshire Constabulary.</p>
<p>3.9 Facts/Issues in dispute</p>	<p><u>Issue 1</u></p> <p>Whether the review application would further support the ‘Prevention of Crime and Disorder’ Licensing Objective.</p>
<p>3.10 Oral representations</p>	<p>The Regulatory Officer addressed the Sub-Committee and outlined the main points with regards to the application.</p> <p><u>Applicant / Responsible Authority</u></p> <p>Karen Woods addressed the Sub-Committee. The key points raised during her address, and following questions from the Sub-Committee were are follows:</p> <ul style="list-style-type: none"> • An investigation regarding illicit sales of tobacco and alcohol at the premise in question had resulted in a formal caution. • On 1 October 2013 an officer in plain clothes was offered foreign labelled brand cigarettes, which could be ‘brought to them’. • On 5 November 2013 one female and one male sold a packet of foreign label cigarettes, which were stored in a box behind a shelf of biscuits and sweets. • On 15 November 2013 ten packets of cigarettes were seized after being found hidden on the premises. The Licensee claimed that the cigarettes belonged to a female employee and that they were being stored at the premises as she did not have room for them in her flat. He stated that he had no knowledge of the content of the box the cigarettes were found in. • The cigarettes were all foreign labelled, without the required health labelling and were being sold for approximately half the standard retail price. • The matter before the Sub-Committee was a separate issue to any criminal proceedings regarding the sale of the cigarettes. <p>In response to questions from the Sub-Committee the Licensee clarified that:</p> <ul style="list-style-type: none"> • He employed two females, but had no male employees. The male in question on 5 November 2013 may have been the boyfriend of one of

his employees.

- He was unaware that illicit cigarettes were being sold at the premises, though he knew that his employees smoked them.
- He did not think there was a problem with keeping the cigarettes in the storage room, as they were not to be sold.

Responsible Authority – Cambridgeshire Constabulary

PCSO Nic Petruzzello addressed the Sub-Committee. The key points raised during his address, and following questions from the Sub-Committee, included:

- The police fully supported the application for a review of the premise licence by Trading Standards.
- Their investigation had revealed a very serious breach of the Licensing Act 2003.
- The illicit sale of tobacco caused detriment to the community and the customers.
- Mr Azher had demonstrated that he was not a proper person to be responsible for the premises and the police would support a revocation of the premises licence.

Licensee

In response to questions from the Sub-Committee Karen Woods clarified that the investigation of the premises had been intelligence led.

Mr Azher, addressed the Sub-Committee. The key points raised during his address, and following questions from the Sub-Committee, included:

- He had not accepted the caution, which had resulted from the investigation, as he had not been present when the cigarettes were sold and had no knowledge of any illicit actions.
- He had taken over the business one year ago. This had resulted in some animosity with the previous workers, who had said they would shut down his business by making unfounded complaints.

Summing Up

All parties were given the opportunity to summarise their submissions.

Applicant / Responsible Authority

Karen Woods concluded that illicit cigarettes had been sold and found on the premises, which was a criminal offence. The Licensee had explained to him that a accepting a caution would be admitting responsibility for the offence and so had not accepted the caution. She requested that the Committee revoke the premises licence or, if it felt unable to do so, add the conditions set out in the application.

4. Decision

The Sub-Committee listened to all the evidence put before it and also took into account the contents of the application and all representations and submissions made in relation to it. The Sub-Committee found as follows:-

The Sub-Committee considered the various options available, these being:

- a) to modify the conditions of the premises licence;
- b) to exclude a licensable activity from the scope of the licence;
- c) to remove the designated premises supervisor from the licence;
- d) to suspend the licence for a period not exceeding three months; or
- e) to revoke the licence.

The decision of the Licensing Act 2003 Sub-Committee was to revoke the licence for the premises, known as Best Deli, 381 Lincoln Road.

The reasons for the Sub-Committees decision included:

It was clear on the information supplied to them that illegal cigarettes were sold on the premises. This had a detrimental impact on the community and was harmful to customers.

The Sub-Committee believed that the additional conditions proposed by Trading Standards were unworkable and insufficient to prevent crime and disorder.

Any party in objection to the decision may appeal to the Peterborough Magistrates Court within 21 days.

Chairman
1:30pm – 2:45pm

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LICENSING COMMITTEE	AGENDA ITEM No. 4
18 SEPTEMBER 2014	PUBLIC REPORT

Cabinet Member(s) responsible:	Cllr Nigel North	
Contact Officer(s):	Licensing Manager Adrian Day Strategic Regulatory Services Manager Peter Gell	Tel. 454437 Tel. 453429

CCTV IN HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES TAXI LICENSING

RECOMMENDATIONS	
FROM : The Licensing Team Licensing Manager Adrian Day	Deadline date :
<p>1. For the committee to approve the removal of the mandatory requirement for hackney carriage and private hire vehicles to have CCTV fitted, and instead make the installation of CCTV optional.</p>	

1. ORIGIN OF REPORT

- 1.1 This report is the result of the need to review all policies on a regular basis.
- 1.2 There is a need for officers to review the Hackney Carriage and Private Hire Licensing Policy in order to ensure that it remains appropriate and fit for purpose.

2. PURPOSE AND REASON FOR REPORT

- 2.1 It is essential that all policies are current and fit for purpose in order for any regulation to be effective. Therefore it is good practice to review policies on a regular basis in order for the policy to be appropriate and up to date and fit for purpose.
- 2.2 Following a consultation with all stakeholders, on 10 March 2009 a report was presented to the Licensing Committee recommending the adoption of CCTV as a compulsory requirement; this was agreed by the committee.
- 2.3 For the decision to be formally implemented it is a requirement for formal notice to be given to the trade, to date this has not happened.
- 2.4 The Information Commissioner's Office (ICO) has since challenged other local authorities setting the same mandatory requirement, and the notices service have been unsuccessfully challenged at tribunal.
- 2.5 The committee officers therefore request to reverse the original decision insofar as making CCTV optional instead of mandatory.

3. TIMESCALE

Is this a Major Policy Item /Statutory Plan?	No
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4. BACKGROUND INFORMATION

- 4.1 All councils have different policies in relation to Hackney Carriage and Private Hire Vehicles in order to regulate the service in accordance with local requirements. A policy which is deemed appropriate in one locality may not meet the requirements or expectations within another locality.
- 4.2 It is good practice to review all policies from time to time in order to ensure that the policy adopted remains fit for purpose, takes in to account any changes in legislation, or to consider any other factors that may have an affect on the service to which the policy relates.
- 4.3 In response to a number of incidents against our licensed drivers, Cambridgeshire Police in 2008 set up a monthly Taxi Issues Meeting. This group being chaired by Cambridgeshire Constabulary was also attended by Councillors, Peterborough Mediation, and Peterborough Racial Equality Commission, representatives from the hackney and private hire trade and council officers.
- 4.4 After a number of meetings the group highlighted on 6 November 2008 that the installation of CCTV could be a possible solution and were supportive of the installation being made compulsory.
- 4.5 Following a consultation with all stakeholders, on 10 March 2009 a report was presented to the Licensing Committee recommending the adoption of CCTV as a compulsory requirement; this was agreed by the committee.
- 4.6 For the decision to be formally implemented it is a requirement for formal notice to be given to the trade. This to date has not happened, at the time there were also significant protests and blockades of council offices with particular concerns relating to the funding of the CCTV. Secondary to this concerns were raised regarding specialist vehicles such as corporate or airport vehicles being forced to have CCTV installed.
- 4.7 The department was asked to explore additional funding options that could support the implementation and offset the costs for the drivers; all attempts to secure funding from various sources were unsuccessful. With many public and private organisations struggling to maintain services within budgetary restraints the opportunity for funding in order to support the installation of the equipment is not available.
- 4.8 The councils Licensing Committee have previously agreed officer recommendations to make the installation of CCTV in all Hackney Carriages and Private Hire Vehicle's mandatory, however the recommendations to date have not been implemented.
- 4.9 Since the recommendations were made to the committee there has been a dramatic downturn in the economy that has had a major effect on the industry, with both sectors of the trade reporting a major fall in the number of fares being undertaken. Due to the current economic climate and the continued reduction in the economy it is anticipated that the trade members are not in a position to provide the financial outlays required by them to fund the installation of CCTV.
- 4.10 The Information Commissioners Office (ICO) has served notice on Southampton and Oxford Council's for implementing the very same requirements, the reason being the ICO is of the opinion that requiring taxi operators to record all conversations and images while the vehicles are in use is disproportionate, audio must only be recorded for a few minutes at a time.
- 4.11 Southampton unsuccessfully appealed the notice at tribunal and has now made the recording of audio driver controllable instead of continuous for a period of up to 5 minutes, however this does not allow the passenger to instigate this process.

- 4.12 Oxford however on being served notice from the ICO reviewed its policy and made the requirement for CCTV optional instead of mandatory and issued guidance for the installation of CCTV.
- 4.13 It can be assumed that the installation of CCTV in vehicles can act as a deterrent against crime on both the passenger and the driver, or as support when investigating an alleged crime. However there are many views on what a reasonable specification would be for equipment and what criteria should be expected. It can also be assumed that audio would provide a key part in many investigations and therefore to not have this facility would reduce the effectiveness of CCTV.
- 4.14 It is considered that to have the full benefits of CCTV then the system should record both audio and video at all times the vehicle is in motion. Taking this in to consideration and the notices already served on other council's for attempting to implement the same requirement, the financial outlay required to install CCTV in the current fleet of vehicles somewhere in excess of £300k, then the appropriate action at this time would be to make CCTV optional rather than mandatory.

5. CONSIDERATIONS

The committee should consider the implications, risks and consequences of amending the original decision to make the installation of CCTV mandatory, in particular any related to safety.

6. RISKS

There have been no risks identified within the recommendation of this report as the original recommendation has not been formally implemented.

7. ANTICIPATED OUTCOMES

The Licensing Committee to make decision and this will form part of the Taxi and Private Hire Licensing Policy / Guidance document.

8. REASONS FOR RECOMMENDATIONS

- To comply with statutory requirements regarding the regular review of licensing policies.
- To ensure that the policies and procedures continue to be fit for purpose.

9. ALTERNATIVE OPTIONS CONSIDERED

- Retain the status quo.

10. IMPLICATIONS

Corporate Resources

Financial – There are costs associated with undertaking a review of a policy, however there are also costs associated where a policy is challenged due to it not being fit for purpose.

Legal – Legal support has been provided by the council's legal team regarding the provision of advice and guidance on taxi licensing matters and the requirements of the consultation.

Corporate Priorities: Environment Capital
Crime and Disorder / Community Safety
Discrimination and Equality – none arising from this report
Human Resources – none arising from this report
ICT – none arising from this report
Property – none arising from this report

Procurement – none arising from this report

Risk Assessment

Risks associated with policy changes will be assessed, and remedial actions identified where necessary. None identified.

An equality impact assessment was undertaken prior to submitting policy changes for adoption.

Policy changes will not have a disproportionate effect on any of the members of the equality groups.

BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985)

The Local Government (Miscellaneous Provisions) Act 1976

The Town and Police Clauses Act 1847

Equality Act 2010

LICENSING COMMITTEE	AGENDA ITEM No. 5
18 SEPTEMBER 2014	PUBLIC REPORT

Cabinet Member(s) responsible:	Cllr Nigel North	
Contact Officer(s):	Licensing Manager Adrian Day Strategic Regulatory Services Manager Peter Gell	Tel. 454437 Tel. 453429

**GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS / CAUTIONS
TAXI LICENSING**

RECOMMENDATIONS	
FROM : The Licensing Team Licensing Manager Adrian Day	Deadline date :
<p>1. For the committee to adopt the updated draft guidance as the council's "Guidance Relating to the Relevance of Convictions / Cautions Taxi Licensing" (Appendix 1).</p>	

1. ORIGIN OF REPORT

- 1.1 This report is the result of the need to review all policies on a regular basis.
- 1.2 There is a need for officers to review the Hackney Carriage and Private Hire Licensing Policy in order to ensure that it remains appropriate and fit for purpose.

2. PURPOSE AND REASON FOR REPORT

- 2.1 It is essential that all policies are current and fit for purpose in order for any regulation to be effective. Therefore it is good practice to review policies on a regular basis in order for the policy to be appropriate and up to date and fit for purpose.
- 2.2 The Guidance Relating to the Relevance of Convictions / Cautions for Taxi Licensing had not been reviewed for some time and therefore it was deemed appropriate for the guidance to be reviewed.
- 2.3 Following the committee's decision the outcome will form part of the Peterborough City Council's Taxi and Private Hire Licensing Policy and Guidance document.

3. TIMESCALE

Is this a Major Policy Item /Statutory Plan?	No
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4. BACKGROUND INFORMATION

- 4.1 All councils have different policies in relation to Hackney Carriage and Private Hire Vehicles in order to regulate the service in accordance with local requirements. A policy which is deemed appropriate in one locality may not meet the requirements or expectations within another locality.

- 4.2 It is good practice to review all policies from time to time in order to ensure that the policy adopted remains fit for purpose, takes in to account any changes in legislation, or to consider any other factors that may have an affect on the service to which the policy relates.
- 4.3 The City Council as the Taxi Licensing Authority, has the responsibility to ensure all drivers of taxis that are available for hire to the public, are 'fit and proper' persons to hold the relevant drivers' licences. The taxi Licensing Authority will take such measures as appropriate in order to protect members of the public, other road users and the drivers themselves.
- 4.4 There is no definition or general test that determines whether or not a driver is deemed 'fit and proper' to hold a licence. It is a matter of judgment for the Licensing Authority in order to assess any risks or concerns, taking into consideration such matters as the applicant's integrity, honesty and previous character. Previous convictions and cautions are taken into account as well as other information.
- 4.5 Convictions and cautions do not necessarily mean that an application will be refused, or a licence will be revoked. Also, where an applicant does not have any convictions or cautions, the applicant must still be deemed 'fit and proper' by the Licensing authority. Each case is treated on its own merits.
- 4.6 The assessment is ongoing and drivers have a duty to disclose any convictions or cautions which might affect their suitability to hold a private hire or hackney carriage driver's licence.
- 4.7 These guidelines will be referred to by officers exercising their powers of delegation, under the Council's Scheme of Delegations in determining whether or not a person is 'fit and proper' to hold a driver's licence.

5. CONSIDERATIONS

The committee should consider the implications, risks and consequences of amending the Guidance Relating to the Relevance of Convictions / Cautions for Taxi Licensing, in particular any related to safety.

6. RISKS

There have been no risks identified within the recommendation of this report.

7. ANTICIPATED OUTCOMES

The Licensing Committee to make decision and this will form part of the Taxi and Private Hire Licensing Policy / Guidance document.

8. REASONS FOR RECOMMENDATIONS

- To comply with statutory requirements regarding the regular review of licensing policies.
- To ensure that the policies and procedures continue to be fit for purpose.

9. ALTERNATIVE OPTIONS CONSIDERED

- Retain the status quo.

10. IMPLICATIONS

Corporate Resources

Financial – There are costs associated with undertaking a review of a policy, however there are also costs associated where a policy is challenged due to it not being fit for purpose.

Legal – Legal support has been provided by the council’s legal team regarding the provision of advice and guidance on taxi licensing matters and the requirements of the consultation.

Corporate Priorities: Environment Capital
Crime and Disorder / Community Safety
Discrimination and Equality – none arising from this report
Human Resources – none arising from this report
ICT – none arising from this report
Property – none arising from this report
Procurement – none arising from this report

Risk Assessment

Risks associated with policy changes will be assessed, and remedial actions identified where necessary. None identified.

An equality impact assessment was undertaken prior to submitting policy changes for adoption.

Policy changes will not have a disproportionate effect on any of the members of the equality groups.

BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985)
The Local Government (Miscellaneous Provisions) Act 1976
The Town and Police Clauses Act 1847
Equality Act 2010

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Guidelines Relating to the Relevance of Convictions / Cautions In Relation to Taxi Licensing

Introduction

The City Council as the Taxi Licensing Authority, has the responsibility to ensure all drivers of taxis that are available for hire to the public, are 'fit and proper' persons to hold the relevant drivers' licences. The taxi Licensing Authority will take such measures as appropriate in order to protect members of the public, other road users and the drivers themselves.

There is no definition or general test that determines whether or not a driver is deemed 'fit and proper' to hold a licence. It is a matter of judgment for the Licensing Authority in order to assess any risks or concerns, taking into consideration such matters as the applicant's integrity, honesty and previous character. Previous convictions and cautions are taken into account as well as other information.

Convictions and cautions do not necessarily mean that an application will be refused, or a licence will be revoked. Also, where an applicant does not have any convictions or cautions, the applicant must still be deemed 'fit and proper' by the Licensing authority. Each case is treated on its own merits.

The assessment is ongoing and drivers have a duty to disclose any convictions or cautions which might affect their suitability to hold a private hire or hackney carriage driver's licence.

These guidelines were adopted on *****2014 and will be referred to by officers exercising their powers of delegation, under the Council's Scheme of Delegations in determining whether or not a person is 'fit and proper' to hold a driver's licence.

1. General

1.1 Scope

This Policy applies to the grant, revocation, suspension or renewal of Operators Licences ("Operator's Licences") and Licences to drive hackney carriages and/or private hire vehicles ("Driver's Licences") issued by Peterborough City Council ("the Council").

1.2 Purpose

The purpose of this Policy is to facilitate the Council's duties and responsibilities in determining the impact of convictions and cautions on the grant or renewal of Driver's and Operator's Licences in accordance with the legislative considerations set out below.

2. Legislative Background

2.1 Licensing Legislation

The Council licences drivers and operators under the Town and Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 ("the Relevant Legislation").

2.2 Grant and Renewal of Licences

Sections 51, 55 and 59 of the Relevant Legislation prescribe that the Council shall not grant a Driver's or Operator's Licence unless satisfied that the applicant is fit and proper for that purpose.

Whilst the relevant legislation is not specific as to what will constitute a fit and proper person for the purpose of determining whether to issue a Licence, it is commonly accepted that any history of offending will be a relevant consideration. The overriding aim of the licensing authority is to protect the public.

2.3 Suspension or Revocation of Licence

Section 61 of the Relevant Legislation prescribes that the Council may suspend, revoke or refuse to renew a Driver's Licence in the following circumstances:

- (a) there been a conviction/caution for an offence involving dishonesty, indecency or violence;
- (b) there has been a conviction or caution for an offence under or a failure to comply with the Relevant Legislation; or
- (c) any other reasonable cause

Similarly, Section 62 of the Relevant Legislation prescribes that the Council may suspend, revoke or refuse to renew an Operator's Licence in the following circumstances:

- (a) there has been an offence under or non-compliance with the Relevant Legislation;
- (b) any conduct on the part of the Operator which renders him unfit to hold a licence;
- (c) any material change since the Licence was granted in any of the circumstances of the operator on the basis of which the licence was granted; or
- (d) any other reasonable cause.

2.4 The Council will also have due regard to:

- (a) s.17 of the Crime and Disorder Act 1998 which states 'without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area.
- (b) The Department for Transport's Taxi and Private Hire Vehicles: Best Practice Guidance which recognises the need for criminal record checks as an important safety measure and contemplates that a particularly cautious view will be taken in relation to offences of a violent or sexual nature.

3. Disclosure of Convictions/Cautions

- 3.1 All persons (“Applicants”) seeking to obtain an Operator’s and/or Driver’s Licence or will be required to disclose the existence and detail of all relevant convictions and/or cautions they may have.
- 3.2 For the purpose of meeting their disclosure obligations Applicants will be required to obtain an Enhanced Disclosure from the Disclosure and Barring Service (“DBS”).
- 3.3 The Council will decide what level of disclosure is required and in doing so will have regard to the Rehabilitation of Offender’s Act 1974 and the Rehabilitation of Offender’s Act 1974 (Exceptions) Order 2002 (“the Order”). In particular, the following is of note:
4. **Drivers**
- 4.1 Hackney and private hire drivers working with children and/or vulnerable adults are included within the scope of the Order. This means that all convictions, irrespective of age or sentence imposed can be considered if relevant to the application and will not become spent for this purpose.
- 4.2 In view of the application of the Order, the Council will request an Enhanced Disclosure from the Disclosure and Barring Service (DBS) the response to which will contain information of any current or spent convictions, cautions, reprimands or warnings as well as for example other relevant information held by the Police. More information about the DBS and the checks that they perform is available on their website.
5. **Operators**
- 5.1 Private Hire Operators do not fall within the Exemption of the Order, however it is acknowledged that whilst that individual may not be directly responsible for transporting members of the public, they will have access to personal information about passengers and afforded access to them if they walked into the Operator’s office to hire a private hire vehicle.
- 5.2 In view of the above and requirement of the Relevant Legislation, that Operators are fit and proper persons, the Council will also request a DBS check.
- 5.3 Information obtained from the DBS will be shared only with those authorised to receive it in the course of their duties.
6. **Assessment of Applications**
- 6.1 The Council will not preclude applications from persons who have previous criminal convictions/cautions subject to the application of this Policy. In particular, having a criminal record will not necessarily be a bar from obtaining a Licence. Each case will be decided on its own merits.
- 6.2 The fact that no convictions/cautions are revealed does not mean that applications will automatically be granted. In some cases, the Applicant’s history may be such that they can never be deemed a fit and proper person. The Council retains absolute discretion as to whether or not a Licence will be granted, having regard to the legislation outlined at paragraph 2 above, all

information obtained and observations made during the relevant application process.

- 6.3 Careful consideration of the evidence provided should be given if an applicant has on more than one occasion been arrested, charged, but not convicted of a serious offence, which suggests on the balance of probabilities that they could pose a danger to the public.
- 6.4 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material, particularly in giving information required on the application form. Where an applicant has made a false statement, false declaration or omitted to include information on their application for the grant or renewal of a licence, the licence will normally be refused.
- 6.5 The Council is also entitled to use other records and available information when determining applications. This may include information held by the council or other Licensing Authorities and information disclosed by the Police under the Home Office scheme for reporting offences committed by notifiable occupations. Anyone on the Disclosure and Barring Service (DBS) Barred List will normally be refused a licence. Any licence holder who is subsequently included on the DBS Barred List will normally have their licence revoked.

7. **Impact of Cautions/Convictions**

- 7.1 Each application will be carefully assessed and in each case the information provided will be considered in relation to the particular circumstances and shall take into account one or more of the following (non-exhaustive) factors:
- 7.2 **Level of Responsibility.** The Council will consider the level of independence afforded to the Applicant. An Applicant who works alone with minimal supervision will be considered a greater risk than one who works in a group and/or is closely supervised.
- 7.3 **Date of Offence(s).** The Council recognises that historic offences may have less relevance than recent offences. As a general rule, a pattern of unrelated or similar offences over a period of time will be considered more serious than an isolated minor conviction.
- 7.4 **Attitude of the Applicant.** The Council will look for evidence that the Applicant has been rehabilitated and has demonstrated a determination not to re-offend.
- 7.5 **Mitigating Circumstances.** The Council may ask Applicants about offence(s)/convictions so that the context can be considered. Due consideration will also be given to any references provided.
- 7.6 **Sentence Imposed.** The Council will consider any sentence imposed as an indication of the Court's view of the seriousness of the offence.

8. **Rehabilitation**

- 8.1 The policy prescribes the minimum periods of rehabilitation which will ordinarily need to have elapsed before an Application can be approved. These minimum periods will be considered in conjunction with the general

considerations outlined above, as well as with reference to any additional information provided or observations made during the disclosure procedure.

- 8.2 Representatives of the Council tasked with deciding whether or not to approve an Application have absolute discretion as to the application of the minimum periods of rehabilitation. This will apply both in favour of granting an Application prior to the expiry of a rehabilitation period (for example where exceptional circumstances exist) or in declining an Application before or after the expiry of a rehabilitation period (for example where there is evidence of any recent, persistent or habitual offending history).

9. **Right of Appeal**

- 9.1 Applicants have a right to appeal against decisions made in pursuance of this Policy in the following circumstances:

9.2 **Licences**

A right of appeal arises against the following decisions:

- Refusal to grant or renew an Operator's or Driver's Licence;
- Suspension or revocation of an Operator's or Driver's Licence; and
- The imposition of conditions which may have been placed on the grant of an Operator's or Driver's Licence.

Any such appeal must be made in writing to the Magistrates Court within 21 days of the date of the decision letter having been served.

The appeal will be processed and determined by the Magistrates Court.

10. **Updating and Repeat Checks**

- 10.1 Successful applicants are required to notify the Council within 7 days of any convictions or cautions they may receive after the grant of their Licence/Approval.
- 10.2 Persons wishing to renew their Licence must obtain and provide updated Disclosure Documents annually.

11. **Breaches of this policy**

- 11.1 Applicants are prohibited from driving a private or hackney carriage vehicle, or performing the duties of an operator without first having obtained a relevant Licence for this purpose.
- 11.2 Persons who have previously been granted a Driver's or Operator's Licence which has been suspended or revoked are prohibited from continuing to drive or perform the duties of an operator unless they have submitted an appeal in accordance with paragraph 9 of this Policy.

12. **Guidelines**

The following paragraphs offer a general guide on the decision, which might be taken where cautions or convictions are disclosed.

Offences Involving Violence

Offences against Children under 14 years and Young Persons 14 to 17 years

- 12.1 Drivers of hackney carriages and private hire vehicles are often entrusted with the care of children and young persons. It is comparatively easy for an unscrupulous driver to take advantage of such vulnerable persons. The Council seeks to minimise risks associated with children and young persons and for that reason a more serious view will be taken when offences of violence involve children or young persons.
- 12.2 Where the commission of an offence involved loss of life a licence will normally be refused. In other cases anyone of a violent disposition will normally be refused to be licensed until they have at least 3 to 10 years free of such conviction or the end of a term of imprisonment if applicable must have passed before an application is likely to be considered favourably. However given the range of the offences that involve violence, consideration must be given to the seriousness and nature of the conviction and the term of rehabilitation could be reduced or increased.

Offences against Other Persons

- 12.3 As hackney carriage and private hire vehicle drivers maintain close contact with the public, where the commission of an offence involved loss of life a licence will normally be refused. In other cases a period of at least 3 to 10 years free of such conviction or the end of a term of imprisonment if applicable must have passed before an application is likely to be considered favourably. However given the range of the offences that involve violence, consideration must be given to the seriousness and nature of the conviction and the term of rehabilitation could be reduced or increased.
- 12.4 Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:
- Murder
 - Manslaughter
 - Manslaughter or culpable homicide whilst driving
 - Terrorism offences
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.
- 12.5 A licence will not normally be granted where the applicant has a conviction for an offence such as:
- Malicious wounding or grievous bodily harm which is racially aggravated
 - Arson
 - Actual bodily harm which is racially aggravated
 - Grievous bodily harm with intent
 - Robbery

- Possession of a firearm
- Riot
- Assault on the Police
- Common assault which is racially aggravated
- Violent disorder
- Resisting arrest
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

and the conviction is less than 10 years prior to the date of application.

12.6 An application will normally be refused where the applicant has a conviction for an offence such as:

- Racially aggravated criminal damage
- Racially aggravated offence
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

and the conviction is less than 5 years prior to the date of application.

12.7 An application will normally be refused where the applicant has a conviction for an offence such as:

- Common assault
- Assault occasioning actual bodily harm
- Affray
- Harassment, alarm or distress (S5 Public Order Act 1986)
- Fear of provocation of violence(S4 Public Order Act 1986)
- Intentional harassment, alarm or distress (S4A Public OrderAct1986)
- Obstruction
- Criminal damage
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

and the conviction is less than 3 to 5 years prior to the date of application.

13. **Weapon Offences**

13.1 If an applicant has been convicted of possession of a weapon or a weapon related offence, this will give serious cause for concern as to whether the person is a fit and proper person to carry members of the public. Depending on the circumstances of the offence, an applicant should be free of conviction for 3 to 5 years prior to the date of application.

14. **Sex and Indecency Offences**

14.1 Any applicant currently on the Sex Offenders Register will not normally be granted a licence.

Offences against Children under 14 years and Young Persons 14 to17 years

- 14.2 Drivers of hackney carriage and private hire vehicles are often entrusted with the care of children and young persons. It is comparatively easy for an unscrupulous driver to take advantage of such vulnerable persons. Where the commission of a sexual offence involves a child or young person an application for a licence will normally be refused.

Offences against Other Persons

- 14.3 As hackney carriage and private hire vehicle drivers often carry unaccompanied passengers, an application will normally be refused where an applicant has a conviction for an offence of:

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

- 14.4 An application will normally be refused where the applicant has a conviction for an offence relating to:

- Sexual or indecent assault
- Possession of indecent photographs, child pornography etc
- Exploitation of prostitution
- Trafficking for sexual exploitation
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

- 14.5 An application will normally be refused where the applicant has a conviction for an offence relating to:

- Indecent exposure
- Soliciting (including kerb crawling)
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

- 14.6 A licence will not normally be granted if an applicant has a conviction for any sex or indecency offence.

15. Dishonesty Offences

- 15.1 Drivers of hackney carriages and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare. It should also be noted that a private hire driver is not bound by a set fare structure and therefore is open to potential abuse by dishonest drivers. Customers often use the trade for journeys to airports and drivers are privy to the knowledge that premises will be empty for a period of time. In addition overseas visitors can be confused by the change in currency and become 'fair game' for an unscrupulous driver. Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing. Passengers may comprise especially vulnerable people.

15.2 For these reasons a serious view is taken of any convictions involving dishonesty. In general a minimum period of 3 to 5 years free of conviction should be required before an application can be considered favourably. Offences of dishonesty include:

- Theft
- Burglary
- Fraud
- Benefit Fraud
- Handling or receiving stolen goods
- Forgery
- Conspiracy to defraud
- Obtaining money or property by deception
- Other deception
- Taking a vehicle without consent
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

16. Drug Offences

16.1 A serious view will be taken with regard to any drug related offence. The nature and quantity of the drugs, whether for personal use or supply are issues which will be considered. A licence will not normally be granted where the applicant has a conviction for an offence related to the supply of drugs and has not been free of such conviction for a period of at least 3 to 5 years.

16.2 An application will normally be refused where an applicant has more than one conviction for offences related to the possession of drugs and has not been free of conviction for 5 years.

16.3 An application from an applicant who has an isolated conviction for an offence related to the possession of drugs within the last 3 to 5 years will require careful consideration of the facts.

16.4 If there is evidence of persistent drugs use, misuse or dependency, a medical examination (in accordance with the DVLA Group 2 Medical Standards) will be required before an application will be considered. If the applicant was an addict then they will be required to show evidence that they have been free from drug taking for a period of at least 5 years after detoxification treatment.

17. Driving Offences

17.1 Private hire and hackney carriage drivers are professional drivers and must be aware of the safety of their passengers and vehicles at all times. Any traffic offence could demonstrate that a driver is not a fit and proper person to hold a Licence. The following is of note:

- **Major offences / High risk offences** (see Annex A for examples of major/high risk offences). An Application received which details one of the major / high risk traffic offences in Annex A, on the DVLA licence, will normally be refused or a current licence suspended or revoked. An application will not normally be approved until the endorsement period has expired (4-11 years) and it is shown that no further motoring convictions have been endorsed on the licence in that period.

- **Minor offences** (see Annex B for examples of minor offences). Where a period of disqualification has been imposed due to the accrual of DVLA penalty points or for a single infringement, an application should not be considered until the driving licence has been restored for a period of 12 months. Should the DVLA licence show a further conviction after the disqualification period then a 12 month period free of conviction should elapse from the date of the latest conviction. If an applicant has had their licence revoked, following six or more penalty points during the first two years since passing their driving test, then a period of 12 months free of further conviction, after passing a further test should have elapsed before granting a licence.

18. **Drunkenness**

18.1 **With a motor vehicle**

A serious view shall be taken of convictions for driving or being in charge of a vehicle whilst under the influence of alcohol or other substances. Where a disqualification has occurred as a result of a drink driving offence, a period free of conviction of 3 to 5 years should elapse from the restoration of the DVLA licence, before an application will be considered.

- 18.2 If there is any indication that the applicant is an alcoholic, a medical examination (in accordance with the DVLA Group 2 Medical Standards) shall be arranged by the applicant, at their expense, before an application is considered. If the applicant was an alcoholic, then they will be required to show evidence that they have undergone rehabilitation and have been free from any issues for a period of at least 3 to 5 years.
- 18.3 An isolated conviction for drunkenness shall not debar an applicant from obtaining a licence. However, a number of related convictions could indicate a problem necessitating a medical, as laid down in 18.2.

19. **Discrimination Offences**

- 19.1 The council will treat any discrimination offence seriously when establishing if an Applicant is fit & proper. A period of 3 to 5 years free of conviction must have elapsed before an application should be considered. If the conviction relates to a racial incident then refer to paragraph 12.6.

20. **Licensing Offences**

- 20.1 Licensing legislation is designed to ensure the public are protected and as such a serious view will be taken of convictions for offences under the Acts when deciding whether an applicant is fit & proper. In general a period of 3 to 5 years free of conviction must have elapsed before an application should be considered.
- 20.2 If an applicant has had a licence suspended, revoked or refused by another authority, then checks will be made with that authority to aid the decision making process.

21. **Outstanding Charges and Summonses**

- 21.1 If an applicant is the subject of any outstanding charge, summons, or is currently on bail awaiting a charging decision, no decision will be made, or licence granted until these outstanding matters are resolved.

Annex A

MAJOR TRAFFIC OFFENCES

- AC10 Failing to stop after an accident
 AC20 Failing to give particulars or to report an accident within 24 hours
 AC30 Undefined accident offences
- BA10 Driving while disqualified by order of court
 BA20 Attempting to drive while disqualified by order of court
- CD10 Driving without due care and attention
 CD20 Driving without reasonable consideration for other road users
 CD30 Driving without due care and attention or without reasonable consideration for other road users
 CD40 Causing death through careless driving when unfit through drink
 CD50 Causing death by careless driving when unfit through drugs
 CD60 Causing death by careless driving with alcohol level above the limit
 CD70 Causing death by careless driving then failing to supply a specimen for analysis
 CD80 Causing death by careless, or inconsiderate driving
 CD90 Causing death by driving: unlicensed, disqualified or uninsured drivers
- DD40 Dangerous driving
 DD60 Manslaughter or culpable homicide while driving a vehicle
 DD80 Causing death by dangerous driving
 DD90 Furious driving
- DR10 Driving or attempting to drive with alcohol level above limit
 DR20 Driving or attempting to drive while unfit through drink
 DR30 Driving or attempting to drive then failing to supply a specimen for analysis
 DR40 In charge of a vehicle while alcohol level above limit
 DR50 In charge of a vehicle while unfit through drink
 DR60 Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive
 DR70 Failing to provide specimen for breath test
 DR80 Driving or attempting to drive when unfit through drugs
 DR90 In charge of a vehicle when unfit through drugs
- IN10 Using a vehicle uninsured against third party risks
- LC20 Driving otherwise than in accordance with a licence
 LC30 Driving after making a false declaration about fitness when applying for a licence
 LC40 Driving a vehicle having failed to notify a disability
 LC50 Driving after a licence has been revoked or refused on medical grounds
- MS50 Motor racing on the highway

MS60 Offences not covered by other codes

UT50 Aggravated taking of a vehicle

Annex B

MINOR TRAFFIC OFFENCES

MS10 Leaving a vehicle in a dangerous position

MS20 Unlawful pillion riding

MS30 Play street offences

MS70 Driving with uncorrected defective eyesight

MS80 Refusing to submit to an eyesight test

MS90 Failure to give information as to identity of driver etc

MW10 Contravention of Special Road Regulations (excluding speed limits)

PC10 Undefined contravention of Pedestrian Crossing Regulations

PC20 Contravention of Pedestrian Crossing Regulations with moving vehicle

PC30 Contravention of Pedestrian Crossing Regulations with stationary vehicle

TS10 Failing to comply with traffic light signals

TS20 Failing to comply with double white lines

TS30 Failing to comply with a "Stop" sign

TS40 Failing to comply with direction of a constable or traffic warden

TS50 Failing to comply with traffic sign (excluding "Stop" sign, traffic lights or double white lines)

TS60 Failing to comply with school crossing patrol sign

TS70 Undefined failure to comply with a traffic direction sign

CU10 Using vehicle with defective brakes

CU20 Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition

CU30 Using a vehicle with defective tyre(s)

CU40 Using a vehicle with defective steering

CU50 Causing or likely to cause danger by reason of load or passengers

SP10 Exceeding goods vehicle speed limit

SP20 Exceeding speed limit for type or vehicle (excluding goods or passenger vehicles)

SP30 Exceeding statutory speed limit on a public road

SP40 Exceeding passenger vehicle speed limit

SP50 Exceeding speed limit on a motorway

Aiding, Abetting, counselling or procuring

Offences as coded above, but with 0 change to 2 (for example CU10 becomes CU12)

Causing or permitting

Offences as coded above, but with 0 change to 4 (for example CU10 becomes CU14)

Inciting

Offences as coded above, but with 0 changed to 6 (for example CU10 becomes CU16)

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LICENSING COMMITTEE	AGENDA ITEM No. 6
18 SEPTEMBER 2014	PUBLIC REPORT

Cabinet Member(s) responsible:	Cllr Nigel North	
Contact Officer(s):	Licensing Manager Adrian Day Strategic Regulatory Services Manager Peter Gell	Tel. 454437 Tel. 453429

REVIEW OF THE PRIVATE HIRE OPERATOR LICENSING CONDITIONS TAXI LICENSING

RECOMMENDATIONS	
FROM : The Licensing Team Licensing Manager Adrian Day	Deadline date :
1. For the committee to adopt the updated draft licensing conditions as the council's "Private Hire Operator Licensing Conditions" (Appendix 1).	

1. ORIGIN OF REPORT

- 1.1 This report is the result of the need to review all policies on a regular basis.
- 1.2 There is a need for officers to review the Hackney Carriage and Private Hire Licensing Policy in order to ensure that it remains appropriate and fit for purpose.

2. PURPOSE AND REASON FOR REPORT

- 2.1 It is essential that all policies are current and fit for purpose in order for any regulation to be effective. Therefore it is good practice to review policies on a regular basis in order for the policy to be appropriate and up to date and fit for purpose.
- 2.2 The licensing conditions for private hire operators had not been reviewed for some time and therefore it was deemed appropriate for the conditions to be reviewed.
- 2.3 Following the committee's decision the outcome will form part of the Peterborough City Council's Taxi and Private Hire Licensing Policy and Guidance document.

3. TIMESCALE

Is this a Major Policy Item /Statutory Plan?	No
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4. BACKGROUND INFORMATION

- 4.1 All councils have different policies in relation to Hackney Carriage and Private Hire Vehicles in order to regulate the service in accordance with local requirements. A policy which is deemed appropriate in one locality may not meet the requirements or expectations within another locality.

- 4.2 It is good practice to review all policies from time to time in order to ensure that the policy adopted remains fit for purpose, takes in to account any changes in legislation, or to consider any other factors that may have an affect on the service to which the policy relates.
- 4.3 Peterborough City Council has various individual policies relating to Hackney Carriage and Private Hire Licensing many of which have remained unchanged for many years. Some of the aspects of licensing have been reviewed recently such as the vehicle age policy and the testing requirements for new driver applications. Also the conditions of fitness relating to Hackney Carriage Vehicles have been amended recently approving certain models of the Peugeot E7 as being suitable to be licensed as Hackney Carriage Vehicles.
- 4.4 There are currently 46 private hire operators licensed in Peterborough, these range from single vehicle owner driver's to companies with in excess of 100 vehicles.
- 4.5 The council has a responsibility to regulate Private Hire Operators in accordance with legislation, when receiving an application as well as considering any legislative requirements local authorities also have the ability to take into consideration local factors or issues that may be relevant when granting a licence.
- 4.6 Conditions in addition to the requirements imposed upon operators by the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847 may be imposed on private hire operator licenses by local authorities.
- 4.7 The council may also add specific conditions to individual operator licences where it deems those conditions appropriate and reasonable in order to protect the public from harm or ensure that the operator acts within the law.
- 4.8 The main change within the draft conditions are the addition of section 15, "Satellite Offices".
- 4.9 A satellite office is an additional bookings location which operates away from the operator's main premises but under the existing licence. This type of operation is permitted within legislation however is open to abuse by the risk of plying for hire, therefore it is deemed appropriate and reasonable to add section 15, "Satellite Offices" to the draft private hire operator conditions (**Appendix 1**).

5. CONSIDERATIONS

The committee should consider the implications, risks and consequences of amending the Private Hire Operator Conditions in particular any related to safety.

6. RISKS

There have been no risks identified within the recommendation of this report.

7. ANTICIPATED OUTCOMES

The Licensing Committee to make decision and this will form part of the Taxi and Private Hire Licensing Policy / Guidance document.

8. REASONS FOR RECOMMENDATIONS

- To comply with statutory requirements regarding the regular review of licensing policies.
- To ensure that the policies and procedures continue to be fit for purpose.

9. ALTERNATIVE OPTIONS CONSIDERED

- Retain the status quo.

10. IMPLICATIONS

Corporate Resources

Financial – There are costs associated with undertaking a review of a policy, however there are also costs associated where a policy is challenged due to it not being fit for purpose.

Legal – Legal support has been provided by the council's legal team regarding the provision of advice and guidance on taxi licensing matters and the requirements of the consultation.

Corporate Priorities: Environment Capital
Crime and Disorder / Community Safety
Discrimination and Equality – none arising from this report
Human Resources – none arising from this report
ICT – none arising from this report
Property – none arising from this report
Procurement – none arising from this report

Risk Assessment

Risks associated with policy changes will be assessed, and remedial actions identified where necessary. None identified.

An equality impact assessment was undertaken prior to submitting policy changes for adoption.

Policy changes will not have a disproportionate effect on any of the members of the equality groups.

BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985)
The Local Government (Miscellaneous Provisions) Act 1976
The Town and Police Clauses Act 1847
Equality Act 2010

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Private Hire Operator's Licence Conditions

Introduction

Private Hire Operators are licensed to provide pre-booked journeys for passengers at an agreed fare. Legislation states that the journey must be pre-booked with the operator prior to commencing, where a fare is undertaken without being pre-booked it is against the law and the drivers insurance will almost certainly be invalid.

The council has a responsibility to regulate Private Hire Operators in accordance with legislation, when receiving an application as well as considering any legislative requirements local authorities also have the ability to take into consideration local factors or issues that may be relevant when granting a licence.

When considering a new application for an operator's licence we will consider the location of the premises, parking arrangements for vehicles and what the effect of granting the licence is likely to have on anyone in the vicinity, this includes residents, the public and other businesses.

Some locations such as the city centre and other densely populated areas do not easily accommodate businesses such as the private hire trade due to the space required for vehicles etc. Due to this we would not grant a licence unless the applicant can demonstrate such measures to ensure that there will not be a detrimental effect on anyone in the vicinity, this will also include any parking infringements by drivers visiting the office that are encouraged due to the location. Any application for a city centre location will also be considered in accordance with the Peterborough City Centre Development Plan.

In granting a licence the authority will attach conditions to the licence, and as part of the authority's role within regulation it will ensure compliance by the operator to these conditions. Some conditions are prescribed by legislation and are mandatory; others are adopted locally where deemed appropriate or necessary.

It is good practice and appropriate to regularly review the conditions in order to ensure that they remain relevant and are fit for purpose. It should be remembered that where conditions are set by legislation then these cannot be amended or removed and therefore will continue to be attached to all operator licences.

These conditions are in addition to the requirements imposed upon operators by the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847. Breach of any of these conditions may lead to enforcement action which could lead to suspension or revocation of the licence and/or prosecution.

These conditions were adopted on *****2014.

1. Planning Requirements

- (a) There shall (where planning legislation and practice requires it) be in force for the premises from which the business is to be conducted a valid planning consent in these cases. Operators must comply fully with any condition attached to such consent.
- (b) Where planning consent is not required written confirmation from the council's planning department will be required.

- (c) In the case of an operator with only one vehicle operating from a residential address and the councils planning department has confirmed that planning permission is not required the following conditions must be adhered to:
- (i) only one vehicle can operate from the premises
 - (ii) customers must not visit the premises
 - (iii) customers must be picked up away from the premises
 - (iv) any advertising from the premises must have prior approval from the council's planning department.

2. Records

- (a) The operator shall be responsible for maintaining at his premises **(AND AT EACH SUCH PREMISES IF OPERATING FROM TWO OR MORE PREMISES)** particulars of all vehicles operated by him, which shall include the following:-
- (i) the call sign or other identifying mark used on booking records;
 - (ii) the licence plate number;
 - (iii) the vehicle registration number;
 - (iv) the name and address of vehicle proprietor;
 - (v) a valid current certificate of motor insurance or security for the vehicle together with, where appropriate, a Ministry of Transport certificate and ensure both the driver and vehicle hold a current licence issued by the City Council;
 - (vi) the names and addresses of drivers and the badge numbers of drivers.
- (b) The above records to be produced on request to an authorised officer of the Council or to a Police Officer.
- (c) Before the commencement of each journey of every private hire booking the operator shall enter in a suitably bound book, **TO BE HELD AT THE PREMISES FROM WHICH THE BOOKING IS MADE**, the pages of which are numbered consecutively, the following details:-
- (i) the time and date of each booking;
 - (ii) by what method the booking was received, i.e. telephone or personal call;
 - (iii) journey from _____ to _____;
 - (iv) the name of the hirer; and
 - (v) cost of fare quoted for journey.
- (Note: If a licence plate number or call sign is used, a record showing the vehicle registration number and the plate number or call sign allocated shall be displayed and kept on the licensed premises).
- (d) The records shall be kept for a period of not less than six months from the date of the last entry, or such longer period as required by an authorised officer of the Council and must be produced on reasonable request to any such officer or to a Police Officer.

4. Information as to Charges

No operator of a private hire vehicle which is licensed by the Authority under this Act shall invite or accept a booking for such vehicle, or control or arrange a journey to be undertaken by such vehicle, without first drawing the attention either orally or in writing to the person making the booking, information as to the basis of charge for the hire of the vehicle. The Operator shall ensure that such information is passed to the driver.

5. **Statement of Fares**

Every operator shall cause a statement of fares in a form previously submitted to and agreed by the Council to be fitted and maintained in such a position in each licensed private hire vehicle and in EACH OF the operator's premises so as to be clearly visible at all times to the hirer. The Statement shall clearly show the following:-

- (a) the minimum charge of each hiring (if any);
- (b) the fare tariff;
- (c) the retention charge per minute or portion thereof;
- (d) any additional charges.

6. **Term of Licence**

Private Hire Vehicle Operator's Licences shall be granted for a period of one year or such other period as the Council may from time to time determine.

7. **Standard of Service**

The operator shall provide a prompt, efficient and reliable service to members of the public at all reasonable times and for this purpose shall in particular:-

- (a) Ensure that when a private hire vehicle has been hired to be in attendance at an appointed time and place the vehicle shall, unless delayed or prevented by reasonable cause, punctually attend at that appointed time and place.
- (b) Keep clean, adequately heated, ventilated and lit any premises which the operator provides and to which the public have access, whether for the purpose of booking or waiting.
- (c) Ensure that any waiting area provided by the operator has adequate seating facilities.
- (d) Ensure that any telephone facilities and radio equipment provided are maintained in a sound condition and that any defects are repaired promptly.
- (e) Ensure that if it is intended that a diesel "Fortwo" Smart Car is to be dispatched to fulfill a booking, it is highlighted with the customer and if requested, an alternative licensed vehicle is supplied.

8. **Disorder**

The holder of an operator's licence shall not permit any person who is drunk, or is behaving in a disorderly manner, to remain upon the premises in respect of which the licence is in force.

9. **Change of Address**

- (a) The operator shall notify the Council in writing of any change of his address (including any address from which he operates or otherwise conducts his business as an operator) during the period of the licence within seven days of such change taking place.

- (b) Where there is a change of address from which the business is conducted, the operator must ensure that all necessary requirements including any planning permissions are in place prior to the business operating from the new location.

10. **Convictions/Cautions**

- (a) The operator shall within seven days disclose to the Council in writing details of any conviction/cautions imposed on him (or if the operator is a company or partnership, on any of the directors or partners) during the period of the licence.
- (b) The grant of the Operator's Licence is precedent to the operator holding a valid licence issued by the Department of Trade and Industry.

11. **Facilities for Passengers**

- (a) The operator shall ensure that where any passenger waiting area or room is provided it is kept physically separate from any driver rest area and operations room.
- (b) The operator shall ensure that his/her staff, drivers, vehicle proprietors, passengers or prospective passengers are not allowed to congregate on a public road, footpath or any other public place adjacent to his/her licensed premises whilst waiting for the arrival of vehicles.
- (c) The operator shall ensure that the internal and exterior of **EACH of HIS/HER** premises ARE kept in good repair to the satisfaction of the Council.

12. **Complaints**

- (a) The operator shall, on receipt of any complaint relating to a contract for hire or purported contract for hire relating to or arising from his/her business, immediately notify the complainant of his/her rights to forward the complaint to the Council.
- (b) Any complaint shall be investigated immediately by the operator and the complainant notified of the outcome within 24 hours.
- (c) Where a complaint is investigated by an authorised officer of the Council the operator shall conform to any directions of the officer in respect of that complaint.

13. **Taximeters**

- (a) The operator shall ensure that vehicles operated by him which are fitted with a sealed taximeter, charge a fare or charge calculated from the point in the district at which the hirer commences his journey and shall not exceed that displayed on the taximeter at the completion of the journey. The taximeter being brought into operation at the commencement of the journey.
- (b) The operator must ensure that all vehicles operated by his base station fitted with meters have been sealed by an authorised Officer of the Council.

14. **Acceptance of Bookings**

- (a) The operator must advise all drivers **OF VEHICLES IN RESPECT OF WHICH HE ACCEPTS A BOOKING THAT**, whilst on duty, being in charge of a licensed private hire vehicle HE shall not ply for hire or otherwise:-
- (i) tout or solicit on a road or other public place any person to hire or be carried in any private hire vehicle;
 - (ii) cause or procure any other person to tout or solicit on any road or other **PUBLIC** place any person to hire or be carried for hire in any private hire vehicle; or
 - (iii) offer the vehicle for immediate hire whilst the driver is on a road or public place or private property.
- (b) The Operator/Proprietor shall not permit any person not being the holder of a valid licence issued by the City Council to drive a licensed private hire vehicle.

15. **Satellite Offices**

Where a satellite office is in operation the following conditions will apply in addition to those previously mentioned:

- (a) Private hire vehicles must not park illegally on the public highway in the vicinity of the satellite office, breach road traffic legislation or breach parking restrictions or cause obstruction or annoyance to the public, other road users or other businesses.
- (b) Vehicles must not be allowed to congregate in the vicinity of the satellite office unless there is adequate off street parking to accommodate all vehicles.
- (c) Private hire vehicles must only attend the satellite office to undertake pre-booked fares and should depart immediately on the collection of their passenger
- (d) Vehicles should not be dispatched to the satellite office unless the passenger is ready for collection.
- (e) Booking records must be kept in accordance with section 2 of this document.
- (f) Private Hire Marshals must be clearly identifiable to the public and fully aware of their responsibilities in accordance with the conditions as attached to the operators licence and all associated legislation.
- (g) Private Hire Marshals or any other person representing the operator must not approach the public or any perspective customer and offer a vehicle for hire, regardless of their location, be it in a public or private place. This includes handing out business cards to perspective customers without the customer making an initial enquiry.
- (h) Where official marshals are not employed by the operator and existing members of staff of a premises are acting as an agent for the operator, then the agent representing the operator must not approach the public or any perspective customer and offer a vehicle for hire, regardless of their location, be it in a public or private place. This includes handing out business cards to perspective customers without the customer making an initial enquiry.
- (i) Driver's must not take bookings direct from customers.
- (j) Where a driver is temporarily undertaking the role of a marshal, the driver must be clearly identifiable as such and must not be in the vicinity of his vehicle.
- (k) Where a driver is temporarily undertaking the role of a marshal, the driver must not take a booking and then carry out the job himself.

15. **Licence Fees**

- (a) A licence in respect of which a licence fee has been paid by cheque shall not be effective until the cheque has been cleared.

DRAFT

LICENSING COMMITTEE	AGENDA ITEM No. 7
18 SEPTEMBER 2014	PUBLIC REPORT

Cabinet Member(s) responsible:	Cllr Nigel North	
Contact Officer(s):	Licensing Manager Adrian Day Strategic Regulatory Services Manager Peter Gell	Tel. 454437 Tel. 453429

CHANGES IN THE LICENSING POLICY FOR HACKNEY CARRIAGE VEHICLE LICENSING

R E C O M M E N D A T I O N S	
FROM : The Licensing Team Licensing Manager Adrian Day	Deadline date :
<p>1. To amend condition 13.3(b) of the "Peterborough Conditions of Fitness for Hackney Carriage Vehicles" so that the exemption applies to all newly presented vehicles for licensing retaining the expiry date for the condition as 15 November 2014.</p> <p>Condition 13.3 to read;</p> <p><i>13.3 The near-side occasional seat must be of swivel type in order to accommodate the needs of passengers with physical disabilities, unless;</i></p> <p><i>a. the vehicle was licensed prior to these Conditions of Fitness being adopted and this facility was not installed, or</i></p> <p><i>b. the vehicle is newly presented for licensing, in which case this condition will not apply until the 15 November 2014 to allow manufacturers / suppliers time to comply with this requirement. From the 15 November 2014 all newly presented vehicles for licensing will be required to have the swivel seat fitted.</i></p>	

1. ORIGIN OF REPORT

- 1.1 On the 14 November 2013 the Licensing Committee approved the draft conditions of fitness for Hackney Carriage vehicles, these were adopted as the "Peterborough Conditions of Fitness for Hackney Carriage Vehicles"
- 1.2 Following the adoption of the "Peterborough Conditions of Fitness for Hackney Carriage Vehicles" the council received a letter dated 24 January 2014 from Bindmans LLP acting on behalf of Allied Vehicles Ltd.
- 1.3 Allied Vehicles are the converter / supplier of the Peugeot E7 and have challenged the council in relation to condition 13.3(b) of the "Peterborough Conditions of Fitness for Hackney Carriage Vehicles", stating that the condition results in a commercial advantage for one manufacture.

2. PURPOSE AND REASON FOR REPORT

- 2.1 This report relates to the Licensing Committees decision at a meeting held on 14 November 2013 to approve amendments to the council's conditions of fitness for hackney carriage vehicles. A copy of the report pack is attached at (**Appendix 1**).

- 2.2 Following the approval these were adopted as the “Peterborough Conditions of Fitness for Hackney Carriage Vehicles”. The adopted conditions are attached at (**Appendix 2**).
- 2.3 Following the amendment of the conditions of fitness the council has received a challenge in writing from Bindmans LLP on behalf of their client Allied Vehicles Ltd in relation to condition 13.3(b) of the “Peterborough Conditions of Fitness for Hackney Carriage Vehicles”. The letter is attached at (**Appendix 3**).
- 2.4 Condition 13.3(b) allows an exemption for all newly presented vehicles for licensing until 15 November 2014 from the requirement to have a swivel type occasional seat fitted where this is not available as an option from the manufacturer / converter of the vehicle. On 15 November 2014 the exemption will cease and all newly presented vehicles will be required to have a swivel type occasional seat fitted.
- 2.5 Following the receipt of the challenge the Licensing Committee is asked to consider the comments raised on behalf of Allied Vehicles Ltd in relation to condition 13.3(b) of the “Peterborough Conditions of Fitness for Hackney Carriage Vehicles”. Then the Committee will be asked to consider officer recommendations to amend the condition.

3. TIMESCALE

Is this a Major Policy Item /Statutory Plan?	No
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4. BACKGROUND INFORMATION

- 4.1 On 29 July 2013 the Licensing Committee after considering consultation feedback and listening to stakeholders approved the Peugeot E7 Short Wheel Base (SWB) SE and XS models as suitable to be licensed as Hackney Carriage Vehicles in Peterborough.
- 4.2 The Licensing Committee specified that the E7 must also be fitted with an induction hearing loop system as with existing Hackney Carriage Vehicle requirements as set out in council’s existing Conditions of Fitness for Hackney Carriage Vehicles.
- 4.3 In addition the Licensing Committee specified that the E7’s nearside occasional flip down seat must be of a swivel type to accommodate the needs of the physically disabled; this option is already available as a standard feature on all LTI vehicles, however this feature is not available on the Mercedes Benz Vito.
- 4.4 In order for the Peugeot E7 to meet the existing Hackney Carriage Vehicle “Conditions of Fitness” some conditions had to be amended or removed to enable the vehicle to meet the requirements.
- 4.5 It is good practice to review all policies from time to time in order to ensure that the policy adopted remains fit for purpose, takes in to account any changes in legislation, or to consider any other factors that may have an effect on the service to which the policy relates.
- 4.6 The “Conditions of Fitness” were amended in draft form, changes included the removal of the turning circle requirement, minor specifications relating to the passenger compartment insofar as seat clearance and window dimensions. In addition some outdated conditions were removed as they were deemed no longer relevant or fit for purpose.
- 4.7 The Licensing Committee had previously specified that the E7’s nearside occasional flip down seat must be of a swivel type to accommodate the needs of the physically disabled; as this was a new requirement and was to be applied to all Hackney Carriage Vehicles, provisions for this needed to be included in the amended “Conditions of Fitness”.
- 4.8 The Licensing Committee was asked to consider a proposed condition regarding the swivel seat and possible exemptions for existing vehicles, as follows;

Condition 13.3

13.3 The near-side occasional seat must be of swivel type in order to accommodate the needs of passengers with physical disabilities, unless;

- a. *the vehicle was licensed prior to these Conditions of Fitness being adopted and this facility was not installed, or*
- b. *the vehicle is newly presented for licensing and this facility is currently not available as an option; where this is the case this condition will not be implemented for (To Be Confirmed) months, and will apply to all newly presented vehicles for licensing from (Date To Be Confirmed) (allowing manufacturers / suppliers time to comply).*

4.9 On 14 November 2013 the Licensing Committee was asked to consider the newly amended draft Conditions of Fitness with the anticipated outcome being that the Committee would approve the draft conditions with or without changes.

4.10 The Licensing Committee heard from Simon Guillatt from Allied Vehicles Ltd, who presented a document from John Halford from Bindmans LLP representing Allied Vehicles Ltd. This is attached at (**Appendix 3**).

4.11 At the Licensing Committee meeting the draft conditions were discussed, and in particular a newly added condition 13.3 in relation to the requirement to have a swivel type occasional near-side seat fitted.

4.12 For information purposes there are 191 Hackney Carriage Vehicles currently licensed in Peterborough, 178 are LTI vehicles (London Cabs), 9 are Mercedes Benz Vito's, and 4 are Metro-cabs.

- All of the 178 LTI vehicles have the swivel seat fitted.
- None of the Mercedes-Benz Vito's have the swivel seat fitted.
 - It should be noted that the council has not received a Mercedes-Benz Vito to be licensed for the first time since August 2010 so therefore we do not anticipate a significant number being presented in the near future.
- None of the Metro-cabs have the swivel seat fitted (this vehicle is no longer available).

4.13 The Licensing Committee agreed that it would not be cost effective for existing licensed vehicles to be retrofitted, and it was doubtful if it would even be structurally possible. Therefore the committee voted to allow an exemption for all existing licensed vehicles from the requirement to have a swivel type occasional seat.

4.14 The committee then considered newly presented vehicles for licensing, they heard that the swivel seat already came as standard on the LTI (London Cab), it was also available as an optional extra on the Peugeot E7, however it was not currently available on the Mercedes-Benz Vito. The committee discussed if an exemption should be granted allowing manufacturers / suppliers time to comply.

4.15 It was discussed that an exemption could be seen as a commercial advantage / disadvantage by manufacturers / suppliers. The committee agreed that a 12 month exemption should be granted. This was in order to give manufacturers who were unable to currently comply a reasonable time frame to develop modifications or proportionate notice that said vehicles will no longer be considered approved.

4.16 Condition 13.3 as approved by the Licensing Committee.

13.3 The near-side occasional seat must be of swivel type in order to accommodate the needs of passengers with physical disabilities, unless;

- a. *the vehicle was licensed prior to these Conditions of Fitness being adopted and this facility was not installed, or*
- b. *the vehicle is newly presented for licensing and this facility is currently not available as an option; where this is the case this condition will not be implemented for 12 months, and will apply to all newly presented vehicles for licensing from 15 November 2014 (allowing manufacturers / suppliers time to comply).*

4.17 On 14 November 2013 the Licensing Committee approved the amendments to the conditions of fitness and these were adopted as the “Peterborough Conditions of Fitness for Hackney Carriage Vehicles”. These are attached at (**Appendix 2**).

4.18 Following the committee’s decision to adopt the “Peterborough Conditions of Fitness for Hackney Carriage Vehicles”, a challenge was received from Allied Vehicles Ltd, the converters of the Peugeot E7. The challenge is in relation to condition 13.3(b) Bindmans LLP acting on behalf of Allied Vehicles Ltd believes that “the net result is that one manufacturer has ended up with a commercial advantage that brings no benefit to the taxi using public of Peterborough. The letter from Bindmans LLP is attached at (**Appendix 3**).

4.19 The Licensing Committee is requested to consider the comments made by Bindmans LLP on behalf of Allied Vehicles Ltd in relation to condition 13.3(b), and approve officer recommendations and amend the condition.

5. RISKS

Although there have been no risks identified with the adoption of the “Peterborough Conditions of Fitness for Hackney Carriage Vehicles” in general, it should be noted that particular consideration should be taken by the committee when agreeing any exemptions in relation to condition 13.3(b) insofar as creating any commercial advantages or disadvantages to vehicle suppliers.

6. ANTICIPATED OUTCOMES

The Licensing Committee to formally reconsider condition 13.3(b) of the “Peterborough Conditions of Fitness for Hackney Carriage Vehicles” and approve officer recommendations to amend the condition, this will form part of the Taxi and Private Hire Licensing Policy / Guidance document.

7. REASONS FOR RECOMMENDATIONS

- To consider the challenge received from Allied Vehicles Ltd to review the policy.
- To remove any possible commercial advantage or disadvantage for manufacturers or suppliers.
- To ensure that the policies and procedures continue to be fit for purpose.

8. ALTERNATIVE OPTIONS CONSIDERED

- Retain the status quo.

9. IMPLICATIONS

Corporate Resources

Financial – There are costs associated with undertaking a public consultation exercise, however there are also costs associated where a policy is challenged due to it not being fit for purpose.

Legal – Legal support has been provided by the council’s legal team regarding the provision of advice and guidance on taxi licensing matters and the requirements of the consultation. Some advice has also been provided by counsel.

Corporate Priorities: Environment Capital
Crime and Disorder / Community Safety
Discrimination and Equality – none arising from this report
Human Resources – none arising from this report
ICT – none arising from this report
Property – none arising from this report
Procurement – none arising from this report

Risk Assessment

Risks associated with policy changes will be assessed, and remedial actions identified where necessary. None identified.

An equality impact assessment was undertaken prior to submitting policy changes for adoption.

Policy changes will not have a disproportionate effect on any of the members of the equality groups.

BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985)

The Local Government (Miscellaneous Provisions) Act 1976

The Town and Police Clauses Act 1847

Equality Act 2010

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LICENSING COMMITTEE	AGENDA ITEM No. 4
14 NOVEMBER 2013	PUBLIC REPORT

Cabinet Member(s) responsible:	Cllr Marco Cereste	
Contact Officer(s):	Licensing Manager Adrian Day Strategic Regulatory Services Manager Peter Gell	Tel. 454437 Tel. 453429

CHANGES IN THE LICENSING POLICY FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE LICENSING

RECOMMENDATIONS	
FROM : The Licensing Team Licensing Manager Adrian Day	Deadline date : N/A
<p>The Committee is requested to approve the attached draft Conditions of Fitness and adopt these conditions as the "Peterborough Conditions of Fitness for Hackney Carriage Vehicles" as follows:</p> <ol style="list-style-type: none"> 1. To approve the above draft conditions with or without amendments; and 2. To consider the possible exemptions available in relation to condition 13.3 (the requirement for the nearside occasional flip down seat to be of swivel type) as referred to in section 6 of this report and; <ol style="list-style-type: none"> a. Agree the appropriate exemption/s; and b. Depending on the exemptions agreed, set a timeframe / implementation date. 	

1. ORIGIN OF REPORT

- 1.1 This report is of a result of the Licensing Committees decision at a meeting held on Monday 29 July 2013 to approve specific models of the Peugeot E7 as suitable to be licensed as a Hackney Carriage Vehicle in Peterborough.
- 1.2 Following this decision there is a need for the council's Conditions of Fitness to be amended in order for the approved models of the E7 to be licensed.

2. PURPOSE AND REASON FOR REPORT

- 2.1 Following the approval from the licensing committee on 29 July 2013 for specific models of the Peugeot E7 to be licensed as Hackney Carriage Vehicles in Peterborough the existing Conditions of Fitness were amended and named the "Peterborough Conditions of Fitness for Hackney Carriage Vehicles" and are attached in draft form at (**Appendix A**).
- 2.2 In order for the Peugeot E7 to be licensed specific conditions within the existing Conditions of Fitness are required to be amended or removed to enable the vehicle to meet the specification required, the amended draft reflect the necessary changes.
- 2.3 It is essential that all policies are current and fit for purpose in order for any regulation to be effective. Therefore it is good practice to review policies on a regular basis in order for any policy to be appropriate and up to date and fit for purpose.

- 2.4 Officers have taken this opportunity to update the conditions in general to ensure that when adopted the "Peterborough Conditions of Fitness for Hackney Carriage Vehicles" will be appropriate and fit for purpose.
- 2.5 Following the committee's decision the outcome will form part of the Peterborough City Council's Taxi and Private Hire Licensing Policy and Guidance document.
- 2.6 This report is for the Committee to consider under its Terms of Reference No. 2.4.1.3 (a) "To exercise the functions of the authority as listed in Schedule 2.4.4, where these are not delegated to officers as listed at section 2.4.3, namely", "hackney carriage and private hire vehicle licensing".

3. **TIMESCALE**

Is this a Major Policy Item /Statutory Plan?	No
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4. **BACKGROUND INFORMATION**

- 4.1 All councils have different policies in relation to Hackney Carriage and Private Hire Vehicles in order to regulate the service in accordance with local requirements. A policy which is deemed appropriate in one locality may not meet the requirements or expectations within another locality.
- 4.2 It is good practice to review all policies from time to time in order to ensure that the policy adopted remains fit for purpose, takes in to account any changes in legislation, or to consider any other factors that may have an affect on the service to which the policy relates.
- 4.3 Peterborough City Council has various individual policies relating to Taxi and Private Hire Licensing many of which have remained unchanged for many years. Some of the aspects of licensing have been reviewed recently such as the vehicle age policy and the testing requirements for new driver applications.
- 4.4 Officers received a request from Allied Vehicles Ltd to review its policy in relation to the conditions of fitness for hackney carriage vehicles in order for the Peugeot E7 to be considered as suitable and fit for purpose to be licensed as a hackney carriage vehicle in Peterborough.
- 4.5 On 29 July 2013 after consideration the Licensing Committee approved the Peugeot E7 Short Wheel Base (SWB) SE and XS models as suitable to be licensed as Hackney Carriage Vehicles. The committee specified that the E7 must also be fitted with a hearing loop system and that the nearside occasional flip down seat must be of a swivel type to the physically impaired.
- 4.6 In order for the approved Peugeot E7 models to meet the councils criteria for Hackney Carriage Vehicles it is necessary to amend the Current Conditions of Fitness removing or changing those specifications where the E7 cannot comply.
- 4.7 The council originally adopted the Transport for London's Condition of Fitness, formally known as the Public Carriage Office (PCO), vehicles only equipped with suitable wheelchair facility ramps and securing straps are approved; these vehicles being the LTI TX1, TX2, TX4, the Metro Triple T and the steering rear axle Mercedes-Benz Vito.
- 4.8 The newly drafted "Peterborough Conditions of Fitness for Hackney Carriage Vehicles" reflects the changes required in order to enable the Peugeot E7 to satisfy the criteria required. In addition to this the conditions have been modernised and made appropriate to current regulatory requirements.

- 4.9 In order for a vehicle to be licensed as a Hackney Carriage in Peterborough it has to be of an approved type. Vehicles will need to meet the criteria set out in the "Peterborough Conditions of Fitness for Hackney Carriage Vehicles" and suitably equipped with wheelchair facility ramps and securing straps.

5. RELEVANT CONDITIONS OF FITNESS FOR APPROVAL

- 5.1 The conditions below are those which have been amended in order for the Peugeot E7 to be approved and licensed as a Hackney Carriage Vehicle. The condition number directly relates to the condition number in the newly drafted "Peterborough Conditions of Fitness"

Condition 12.9

Where seats are placed facing each other, there must be a minimum space of 350mm (**previously 425mm**) between any part of the front of a seat and any part of any other seat which faces it, provided adequate foot room is maintained at floor level.

Condition 16.1

The windows should maximise passenger visibility into and out of the vehicle. The top of the window line for front and side windows, when measured vertically to the top of the visible portion of the glass, must not be less than 750mm (**previously 780mm**) on any glass panel forward of or beside the seated passenger. The vertical distance is to be measured from the top of the uncompressed rear forward-facing passenger seat cushion to the first point of totally obscured glass.

Condition 13.2

Occasional seats must be so arranged as to rise automatically when not in use. When not in use, they must not obstruct doorways.

(previously read) Occasional seats must be so arranged as to rise automatically when not in use. They must be placed at least 40mm apart. When not in use, they must not obstruct doorways.

- 5.2 The condition below has been removed as the turning circle requirement no longer exists follow the committees previous decision to approve the Peugeot E7.

"The vehicle must be capable of being turned on either lock so as to proceed in the opposite direction without reversing between two vertical parallel planes not more than 8.535 metres apart".

6. OCCASIONAL FLIP DOWN SEAT – SWIVEL TYPE

- 6.1 The Licensing Committee's decision on the 29 July 2013 to approve the Peugeot E7 as suitable to be licensed as a Hackney Carriage Vehicle included the requirement for the vehicle's nearside occasional flip down seat to be of a swivel type. Therefore an appropriate condition has been added as below;

Condition 13.3

The near-side occasional seat must be of swivel type in order to accommodate the needs of passengers with physical impairments

- 6.2 Occasional flip down swivel type seats are available on both the Peugeot E7 and newer models of the LTI vehicle, however they are not available on the Mercedes-Benz Vito. These are the 3 types of vehicles approved as suitable to be licensed as Hackney carriage Vehicles in Peterborough.
- 6.3 Due to the structural changes required and the costs involved it is unlikely that the Mercedes-Benz Vito will be redesigned to provide this feature as an option in the near future, if at all. There are currently 9 Mercedes-Benz Vito's licensed as Hackney Carriage Vehicles in Peterborough.

- 6.4 It should be mentioned that many of the currently licensed Hackney Carriage Vehicles do not have the swivel seat fitted and it would be un-realistic to request a retrofit due to cost and practicality.
- 6.5 The committee is therefore requested to consider the above information and if they see fit issue exemptions to condition 13.3 where deemed appropriate or relevant.
- 6.6 The committee may decide to exempt all vehicles from this condition that were licensed prior to the new Conditions of Fitness being adopted, where the swivel seat is not installed. All existing licensed Hackney Carriage Vehicles that do not have a swivel seat will be able to remain in service.
- 6.7 The committee may decide to offer an exemption for the Mercedes-Benz Vito for a specific time frame which would allow time for the manufacturers / suppliers to explore the possibility of providing the swivel seat. If this is the case the committee should agree a timeframe in months.

The committee may decide to offer a permanent exemption which would allow new Mercedes-Benz Vito's to be licensed indefinitely and not comply with the condition; however it should be noted that this decision would most likely be seen as a commercial advantage in favour of Mercedes by the other manufactures / suppliers and therefore this decision may be changed.

The committee may decide not to issue an exemption for the Mercedes-Benz Vito, this would mean that following the adoption of the new Conditions of Fitness newly presented Mercedes-Benz Vito's would no longer be suitable for licensing as a Hackney Carriage Vehicle.

- 6.8 Condition 13.3 including the suggested options for exemptions are listed below, exemption a. relates to existing licensed vehicles, exemption's b. and c. relate to the Mercedes-Benz Vito and should be either or, not both.

Condition 13.3

The near-side occasional seat must be of swivel type in order to accommodate the needs of passengers with physical impairments, unless;

THE FOLLOWING EXEMPTIONS ARE TO BE CONSIDERED BY THE LICENSING COMMITTEE AND WILL BE AMENDED OR DELETED AS APPROPRIATE

- a. *the vehicle was licensed prior to these Conditions of Fitness being adopted and this facility was not installed.*
- b. *the vehicle is newly presented for licensing and this facility is currently not available as an option; where this is the case this condition will not be implemented for [ENTER NUMBER] months, and will apply to all newly presented vehicles for licensing from [ENTER DATE] (allowing manufacturers / suppliers time to comply).*
- c. *the vehicle is newly presented for licensing and this facility is currently not available as an option; where this is the case this condition will not apply.*

7. RISKS

- 7.1 Although there have been no risks identified with the adoption of the "Peterborough Conditions of Fitness for Hackney Carriage Vehicles" in general, it should be noted that particular consideration should be taken by the committee when agreeing any exemptions in relation to condition 13.3; insofar as creating any commercial advantages or disadvantages to vehicle suppliers.

8. ANTICIPATED OUTCOMES

- 8.1 The Licensing Committee to formally adopt the “Peterborough Conditions of Fitness for Hackney Carriage Vehicles” and this will form part of the Taxi and Private Hire Licensing Policy / Guidance document.

9. REASONS FOR RECOMMENDATIONS

- 9.1 To comply with statutory requirements regarding the regular review of licensing policies.
- 9.2 To consider the request received from Allied Vehicles Ltd to review the policy.
- 9.3 To ensure that the policies and procedures continue to be fit for purpose.

10. ALTERNATIVE OPTIONS CONSIDERED

- 10.1 Retain the status quo.

11. IMPLICATIONS

- 11.1 Financial – There are costs associated with undertaking a public consultation exercise, however there are also costs associated where a policy is challenged due to it not being fit for purpose.
- 11.2 Legal – Legal support has been provided by the council’s legal team regarding the provision of advice and guidance on taxi licensing matters and the requirements of the consultation. Some advice has also been provided by counsel.

12. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985)

The Local Government (Miscellaneous Provisions) Act 1976
 The Town and Police Clauses Act 1847
 Equality Act 2010

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APPENDIX A

PETERBOROUGH CONDITIONS OF FITNESS FOR HACKNEY CARRIAGE VEHICLES**Hackney Carriage Vehicle Specification and Type Approval****SECTION A. APPROVED VEHICLES**

- 1.1 The following vehicles are approved by Peterborough City Council (the Licensing Authority) to be licensed as Hackney Carriage Vehicles: LTI TX1, TX2, TX4, Metro Triple T, the steering rear axle Mercedes-Benz Vito Mercedes Vito, and the Peugeot E7 SE and XS short wheelbase models.

SECTION B. VEHICLE APPROVAL

- 2.1 No vehicle will be authorised as a Hackney Carriage Vehicle unless it conforms with the requirements as set out within this document unless; where justifiable reasons exist the committee may decide to approve the vehicle.
- 2.2 A vehicle must be new or under 3 years old (36 months) at the time it is first licenced and may be licensed up to 15 years of age; calculated from the date on which the vehicle was first registered under the Vehicle and Excise Registration Act 1994. The operating period being subject to compliance with the council's standard of fitness.
- 2.3 An application for the approval of a new type of Hackney Carriage vehicle must be made in writing to the Licensing Authority.
- 2.4 The applicant must study the Conditions of Fitness set out in Section C of this document and provide detailed specifications of the proposed vehicle, or vehicle conversion demonstrating that the vehicle meets the requirements of the Conditions of Fitness. It will also be necessary to arrange a preliminary inspection of the vehicle.
- 2.5 The applicant should address any current guidance issued by the Department for Transport (DfT) [or any replacement body if this should change] for the design of Hackney Carriage Vehicles and indicate to the Licensing Authority the extent to which those guidelines have been accommodated. In particular, applicants should demonstrate that they have taken account of current DfT guidance as regards ergonomic requirements for accessible taxis.
- 2.6 Arrangements must then be made to present the completed vehicle for inspection by the Licensing Authority. When presented, all associated equipment must be present for the inspection and testing of the vehicle; i.e. wheelchair ramps, straps etc. A declaration must be provided by the manufacturer or authorised person that the vehicle conforms to the law and is safe for use as a public carriage, together with a certificate of registration and summarised documentary evidence that the vehicle meets the Conditions of Fitness as stated in Section C of this document.

- 2.7 Any proposed structural alterations to the original specification must be submitted to the Licensing Authority for approval.
- 2.8 The approval of the vehicle will be determined by the Licensing Committee who will consider each application under its own merits. Although a vehicle may meet the criteria as set out by the Conditions of Fitness, where justifiable reasons exist the committee may decide after consideration not to approve the vehicle. Where a vehicle does not completely comply with the Conditions of Fitness, however justifiable reasons exist the committee may decide after consideration to approve the vehicle.

SECTION C. CONDITIONS OF FITNESS

The Conditions of Fitness contained in Section C below became effective on (ENTER DATE), following the approval to adopt the conditions by the Local Authorities Licensing Committee at a meeting held on 14 November 2013.

3. General Construction

- 3.1 Every new type of Hackney Carriage Vehicle must comply with the requirements of any Acts and Regulations relating to motor vehicles in force at the time of approval including the Motor Vehicle (Type Approval) Regulations 1980, and the Motor Vehicles (Construction and Use) Regulations 1984.
- 3.2 Every new type of Hackney Carriage Vehicle offered for approval must comply in all respects with British and European vehicle regulations and be "type approved" to the requirements of the M1 category of European Whole Type Approval Directive 70/156/EEC as amended. Those Hackney Carriage Vehicles which have not been "type approved" to the M1 category (e.g. conversions) must be presented with approved certification that the specific vehicle meets the requirements of those categories.
- 3.3 Vehicles offered for Hackney Carriage approval must be constructed in a way as to allow the carriage of disabled persons and must accommodate as a minimum a disabled person in a Department of Transport reference wheelchair in the passenger compartment.
- 3.4 No equipment and/or fittings, other than those approved by the Local Authority may be attached to, or carried on the inside or outside of the vehicle.
- 3.5 No modification may be carried out to a Hackney Carriage Vehicle without prior approval from the Licensing Authority.
- 3.6 Before considering any modification to a Hackney Carriage Vehicle, approval must be sought from the Licensing Authority.

4. Steering

- 4.1 The steering wheel must be on the offside of the vehicle.

5. Tyres

- 5.1 All tyres must comply with the relevant legislation and be marked accordingly.
- 5.2 Tyres must be of the designated size, speed and weight rating for that make and model of vehicle as prescribed by the vehicle manufacturer.

6. Brakes

- 6.1 An anti-lock braking system is to be fitted.

7. Interior lighting

- 7.1 Adequate lighting must be provided for the driver and passengers.
- 7.2 Separate lighting controls for both passenger and driver must be provided. In the case of the passenger compartment, an illuminated control switch must be fitted in an approved position. This must be within reach of wheelchair passengers. Lighting must also be provided at floor level to each passenger door and be activated by the opening of the doors.

8. Electrical Equipment

- 8.1 Any additional electrical installation and/or after-market components to be used within the taxi must meet the requirements of the relevant Automotive Electro Magnetic Compatibility (EMC) Directive, as amended, and be marked accordingly.

9. Fuel Systems

- 9.1 Any engine powered by liquid petroleum gas (LPG), compressed natural gas (CNG), liquid natural gas (LNG), petrol or any combination of these fuels must be fitted with an automatic inertia fuel cut off device.

10. Exhaust emissions standards

- 10.1 New taxi models must meet the current and relevant EC Directive for exhaust emissions, i.e. the respective Euro standard. Current, approved, taxi models must meet prescribed emissions standards.

11. Body

- 11.1 The body must be of the fixed head type with a partially glazed partition separating the passenger from the driver.
- 11.2 The overall length must not exceed 5 metres. This is essential for determining the size of taxi ranks, other pick-up points in Peterborough's city centre.

12. Facilities for the disabled

- 12.1 Every taxi must be equipped to approved standards in order that wheelchair passengers may be carried.
- 12.2 Approved anchorages must be provided for wheelchair tie downs and the wheelchair passenger restraint. These anchorages must be either chassis or

floor linked and capable of withstanding approved dynamic or static tests. Restraints for wheelchair and occupant must be independent of each other.

- 12.3 Anchorages must also be provided for the safe stowage of a wheelchair when not in use, whether folded or otherwise, if carried within the passenger compartment. All anchorages and restraints must be so designed that they do not cause any danger to other passengers.
- 12.4 The door and doorway must be so constructed as to permit an unrestricted opening across the doorway of at least 75cm. The minimum angle of a hinged door when opened must be 90 degrees.
- 12.5 The clear height of the doorway must be not less than 1.2 metres.
- 12.6 Grab handles must be placed at door entrances to assist the elderly and disabled. All grab handles must be in a contrasting colour.
- 12.7 The top of the tread for any entrance should normally be at floor level of the passenger compartment and comply with the following requirements:
- be not more than 380 mm from the ground, (measured at the centre of the tread width);
 - the surface shall be covered in a slip-resistant material;
 - have a band of colour across the entire width of the edge which shall contrast with the remainder of the tread and floor covering.

Should any entrance be more than 380 mm from the ground, an external interim step must be made available when the associated passenger door is opened and comply with the following requirements-

- not be more than 380 mm in height from the ground, (measured at the centre of the step width);
 - not be less than 250 mm deep;
 - the surface shall be covered in a slip-resistant material;
 - have a band of colour across its leading edge which shall contrast with the remainder of the step and floor covering;
 - not be capable of operation whilst the vehicle is in motion;
 - if automatic or powered, be fitted with a safety device which stops the motion of the step if the step is subject to a reactive force not exceeding 150N in any direction and if that motion could cause injury to the passenger;
 - can fold or retract so that it does not project beyond the side face of the vehicle and the vehicle is not capable of being driven away unless the step is so folded or retracted.
- 12.8 The vertical distance between the highest part of the floor and the roof in the passenger compartment must not be less than 1.3 metres.
- 12.9 Where seats are placed facing each other, there must be a minimum space of 350mm between any part of the front of a seat and any part of any other seat which faces it, provided adequate foot room is maintained at floor level.
- 12.10 Where all seats are placed facing to the front of the vehicle, there must be clear space of at least 66cm in front of every part of each seat squab, measured along a horizontal plane at the centre of the cushion.

- 12.11 A ramp for the loading of a wheelchair and occupant must be available at all times for use, as a minimum, at the nearside passenger door on all new vehicles presented for licensing. The ramp must have a safety lip, be 70cm wide, as a minimum, and comprise a single non-slip surface. It is desirable for this facility to be available at the offside passenger door also. An adequate locking device must be fitted to ensure that the ramp does not slip or tilt when in use. Provision must be made for the ramp to be stowed safely when not in use.

13. Passenger compartment

- 13.1 Occasional seats must be at least 40cm in width and the distance from the back of the upholstery to the front edge of the seat must be not less than 35.5cm.
- 13.2 Occasional seats must be so arranged as to rise automatically when not in use. When not in use, they must not obstruct doorways.
- 13.3 The near-side occasional seat must be of swivel type in order to accommodate the needs of passengers with physical impairments, unless;

THE FOLLOWING EXEMPTIONS ARE TO BE CONSIDERED BY THE LICENSING COMMITTEE AND WILL BE AMENDED OR DELETED AS APPROPRIATE

- a. *the vehicle was licensed prior to these Conditions of Fitness being adopted and this facility was not installed.*
 - b. *the vehicle is newly presented for licensing and this facility is currently not available as an option; where this is the case this condition will not be implemented for [ENTER NUMBER] months, and will apply to all newly presented vehicles for licensing from [ENTER DATE] (allowing manufacturers / suppliers time to comply).*
 - c. *the vehicle is newly presented for licensing and this facility is currently not available as an option; where this is the case this condition will not apply.*
- 13.4 The rear seat dimensions must be adequate to carry the appropriate number of adult passengers comfortably.
- 13.5 Suitable means must be provided to assist persons to rise from the rear seat with particular attention to the needs of the elderly and disabled.
- 13.6 Lap and diagonal seatbelts must be fitted on all seats (including rear facing seats).
- 13.7 Colour contrasting sight patches are required on all passenger seats.
- 13.8 Head restraints must be fitted for all (forward and rear facing) seats. The design of headrests should maximise rear sightlines for the driver when any of the passenger seats are not occupied.
- 13.9 An induction loop system (or equivalent) must be fitted.

14. Driver's compartment

- 14.1 The driver's compartment must be so designed that the driver has adequate room, can easily reach, and quickly operate, the controls.
- 14.2 The controls must be so placed as to allow reasonable access to the driver's seat and, when centrally placed, controls must be properly protected from contact with luggage.
- 14.3 Every vehicle must be provided with an approved means of communication between the passenger and the driver. If a sliding window is fitted on the glazed partition, the maximum width of the opening must not exceed 11.5cm.
- 14.4 Where a single-piece glazed partition is fitted, a facility must be provided for making payment to the driver.

15. Visibility - Driver

- 15.1 A single-piece, full width rear window must be fitted. The design of headrests should maximise rear sightlines for the driver when any of the passenger seats are not occupied.

16. Visibility - Passenger

- 16.1 The windows should maximise passenger visibility into and out of the vehicle. The top of the window line for front and side windows, when measured vertically to the top of the visible portion of the glass, must not be less than 750mm on any glass panel forward of or beside the seated passenger. The vertical distance is to be measured from the top of the uncompressed rear forward-facing passenger seat cushion to the first point of totally obscured glass.
- 16.2 The bottom of the window line for front and side windows must be low enough to afford passengers adequate visibility out of the vehicle.
- 16.3 A proportion of the window area in the passenger compartment must be available for opening by the seated passenger.
- 16.4 Windows must permit maximum visibility into, and out of, the vehicle. They must have no more than 25% tint value.
- 16.5 Passenger windows must be capable of being opened easily by passengers, including those in wheelchairs, when seated. The control for opening a window must be clearly identified to prevent it being mistaken for any other control.

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- 20.1 The flooring of the passenger compartment must be covered with a slip resistant material, which can be easily cleaned.
- 20.2 The floor covering must not impede the movement of wheelchairs. The colour of the floor covering must contrast with any up-stand areas around it and with the colour of the seats.

21. Luggage

- 21.1 Suitable dedicated provision for the secure carriage of luggage must be made, separated from the passenger compartment and proportionate in size to the number of passengers carried.

22. Taximeter

The vehicle shall be provided with a taximeter which must be so constructed, attached and maintained as to comply with the requirements of the Council:-

- a. all taximeters must be calendar controlled, approved and sealed by the City Council Taxi Enforcement Section.
- b. the taximeter shall be fitted with a key, flag, or other device, the turning of which will bring the machinery of the taximeter into action and cause the word "HIRED" to appear on the face of the taximeter and cancel any external "For Hire" sign;
- c. such key, flag or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
- d. when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for the hire of the vehicle by distance/time;
- e. the word "FARE" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon;
- f. the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the

vehicle and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring;

- g. the taximeter and all the fittings thereof shall be so affixed to the vehicle with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances;
- h. the taximeter affixed to the vehicle shall be appropriately set to ensure that the Council's hackney carriage fare scale currently in force in the City is recorded thereon.

23. Taxi Roof Sign

- 23.1 A "Taxi" roof sign approved by the council must be fitted and be clearly visible daytime and night time when the taxi is available for hire.

24. Radio Equipment

- 24.1 Where equipment for the operation of a two-way radio system is fitted to a taxi, no part of the apparatus may be fixed in the passenger compartment or in the rear boot compartment if LPG tanks or equipment are situated therein.
- 24.2 Any other radio equipment, either in the passenger or driver compartment, must be approved by the council.

25. Electrical Equipment

- 25.1 Any additional or non-standard electrical installation to the original vehicle must be installed and tested by a professional installer and be protected by a suitably rated fuse. Any additional installation must comply with all relevant regulations.

PETERBOROUGH CONDITIONS OF FITNESS FOR HACKNEY CARRIAGE VEHICLES

Hackney Carriage Vehicle Specification and Type Approval

SECTION A. APPROVED VEHICLES

- 1.1 The following vehicles are approved by Peterborough City Council (the Licensing Authority) to be licensed as Hackney Carriage Vehicles: LTI TX1, TX2, TX4, Metro Triple T, the steering rear axle Mercedes-Benz Vito, and the Peugeot E7 SE and XS short wheelbase models.

SECTION B. VEHICLE APPROVAL

- 2.1 No vehicle will be authorised as a Hackney Carriage Vehicle unless it conforms with the requirements as set out within this document unless; where justifiable reasons exist the committee may decide to approve the vehicle.
- 2.2 A vehicle must be new or under 3 years old (36 months) at the time it is first licenced and may be licensed up to 15 years of age; calculated from the date on which the vehicle was first registered under the Vehicle and Excise Registration Act 1994. The operating period being subject to compliance with the council's standard of fitness.
- 2.3 An application for the approval of a new type of Hackney Carriage vehicle must be made in writing to the Licensing Authority.
- 2.4 The applicant must study the Conditions of Fitness set out in Section C of this document and provide detailed specifications of the proposed vehicle, or vehicle conversion demonstrating that the vehicle meets the requirements of the Conditions of Fitness. It will also be necessary to arrange a preliminary inspection of the vehicle.
- 2.5 The applicant should address any current guidance issued by the Department for Transport (DfT) [or any replacement body if this should change] for the design of Hackney Carriage Vehicles and indicate to the Licensing Authority the extent to which those guidelines have been accommodated. In particular, applicants should demonstrate that they have taken account of current DfT guidance as regards ergonomic requirements for accessible taxis.
- 2.6 Arrangements must then be made to present the completed vehicle for inspection by the Licensing Authority. When presented, all associated equipment must be present for the inspection and testing of the vehicle; i.e. wheelchair ramps, straps etc. A declaration must be provided by the manufacturer or authorised person that the vehicle conforms to the law and is safe for use as a public carriage, together with a certificate of registration and summarised documentary evidence that the vehicle meets the Conditions of Fitness as stated in Section C of this document.
- 2.7 Any proposed structural alterations to the original specification must be submitted to the Licensing Authority for approval.
- 2.8 The approval of the vehicle will be determined by the Licensing Committee who will consider each application under its own merits. Although a vehicle

may meet the criteria as set out by the Conditions of Fitness, where justifiable reasons exist the committee may decide after consideration not to approve the vehicle. Where a vehicle does not completely comply with the Conditions of Fitness, however justifiable reasons exist the committee may decide after consideration to approve the vehicle.

SECTION C. CONDITIONS OF FITNESS

The Conditions of Fitness contained in Section C below became effective on 15 November 2013, following the approval to adopt the conditions by the Local Authorities Licensing Committee at a meeting held on 14 November 2013.

3. General Construction

- 3.1 Every new type of Hackney Carriage Vehicle must comply with the requirements of any Acts and Regulations relating to motor vehicles in force at the time of approval including the Motor Vehicle (Type Approval) Regulations 1980, and the Motor Vehicles (Construction and Use) Regulations 1984.
- 3.2 Every new type of Hackney Carriage Vehicle offered for approval must comply in all respects with British and European vehicle regulations and be “type approved” to the requirements of the M1 category of European Whole Type Approval Directive 70/156/EEC as amended. Those Hackney Carriage Vehicles which have not been “type approved” to the M1 category (e.g. conversions) must be presented with approved certification that the specific vehicle meets the requirements of those categories.
- 3.3 Vehicles offered for Hackney Carriage approval must be constructed in a way as to allow the carriage of disabled persons and must accommodate as a minimum a disabled person in a Department of Transport reference wheelchair in the passenger compartment.
- 3.4 No equipment and/or fittings, other than those approved by the Local Authority may be attached to, or carried on the inside or outside of the vehicle.
- 3.5 No modification may be carried out to a Hackney Carriage Vehicle without prior approval from the Licensing Authority.
- 3.6 Before considering any modification to a Hackney Carriage Vehicle, approval must be sought from the Licensing Authority.

4. Steering

- 4.1 The steering wheel must be on the offside of the vehicle.

5. Tyres

- 5.1 All tyres must comply with the relevant legislation and be marked accordingly.
- 5.2 Tyres must be of the designated size, speed and weight rating for that make and model of vehicle as prescribed by the vehicle manufacturer.

6. Brakes

- 6.1 An anti-lock braking system is to be fitted.

7. Interior lighting

- 7.1 Adequate lighting must be provided for the driver and passengers.
- 7.2 Separate lighting controls for both passenger and driver must be provided. In the case of the passenger compartment, an illuminated control switch must be fitted in an approved position. This must be within reach of wheelchair passengers. Lighting must also be provided at floor level to each passenger door and be activated by the opening of the doors.

8. Electrical Equipment

- 8.1 Any additional electrical installation and/or after-market components to be used within the taxi must meet the requirements of the relevant Automotive Electro Magnetic Compatibility (EMC) Directive, as amended, and be marked accordingly.

9. Fuel Systems

- 9.1 Any engine powered by liquid petroleum gas (LPG), compressed natural gas (CNG), liquid natural gas (LNG), petrol or any combination of these fuels must be fitted with an automatic inertia fuel cut off device.

10. Exhaust emissions standards

- 10.1 New taxi models must meet the current and relevant EC Directive for exhaust emissions, i.e. the respective Euro standard. Current, approved, taxi models must meet prescribed emissions standards.

11. Body

- 11.1 The body must be of the fixed head type with a partially glazed partition separating the passenger from the driver.
- 11.2 The overall length must not exceed 5 metres. This is essential for determining the size of taxi ranks, other pick-up points in Peterborough's city centre.

12. Facilities for the disabled

- 12.1 Every taxi must be equipped to approved standards in order that wheelchair passengers may be carried.
- 12.2 Approved anchorages must be provided for wheelchair tie downs and the wheelchair passenger restraint. These anchorages must be either chassis or floor linked and capable of withstanding approved dynamic or static tests. Restraints for wheelchair and occupant must be independent of each other.
- 12.3 Anchorages must also be provided for the safe stowage of a wheelchair when not in use, whether folded or otherwise, if carried within the passenger

compartment. All anchorages and restraints must be so designed that they do not cause any danger to other passengers.

- 12.4 The door and doorway must be so constructed as to permit an unrestricted opening across the doorway of at least 75cm. The minimum angle of a hinged door when opened must be 90 degrees.
- 12.5 The clear height of the doorway must be not less than 1.2 metres.
- 12.6 Grab handles must be placed at door entrances to assist the elderly and disabled. All grab handles must be in a contrasting colour.
- 12.7 The top of the tread for any entrance should normally be at floor level of the passenger compartment and comply with the following requirements:
 - a. be not more than 380 mm from the ground, (measured at the centre of the tread width);
 - b. the surface shall be covered in a slip-resistant material;
 - c. have a band of colour across the entire width of the edge which shall contrast with the remainder of the tread and floor covering.

Should any entrance be more than 380 mm from the ground, an external interim step must be made available when the associated passenger door is opened and comply with the following requirements-

- a. not be more than 380 mm in height from the ground, (measured at the centre of the step width);
 - b. not be less than 250 mm deep;
 - c. the surface shall be covered in a slip-resistant material;
 - d. have a band of colour across its leading edge which shall contrast with the remainder of the step and floor covering;
 - e. not be capable of operation whilst the vehicle is in motion;
 - f. if automatic or powered, be fitted with a safety device which stops the motion of the step if the step is subject to a reactive force not exceeding 150N in any direction and if that motion could cause injury to the passenger;
 - g. can fold or retract so that it does not project beyond the side face of the vehicle and the vehicle is not capable of being driven away unless the step is so folded or retracted.
- 12.8 The vertical distance between the highest part of the floor and the roof in the passenger compartment must not be less than 1.3 metres.
- 12.9 Where seats are placed facing each other, there must be a minimum space of 350mm between any part of the front of a seat and any part of any other seat which faces it, provided adequate foot room is maintained at floor level.
- 12.10 Where all seats are placed facing to the front of the vehicle, there must be clear space of at least 66cm in front of every part of each seat squab, measured along a horizontal plane at the centre of the cushion.
- 12.11 A ramp for the loading of a wheelchair and occupant must be available at all times for use, as a minimum, at the nearside passenger door on all new vehicles presented for licensing. The ramp must be 70cm wide, as a minimum, and comprise a single non-slip surface. It is desirable for this facility

to be available at the offside passenger door also. An adequate locking device must be fitted to ensure that the ramp does not slip or tilt when in use. Provision must be made for the ramp to be stowed safely when not in use.

13. Passenger compartment

- 13.1 Occasional seats must be at least 40cm in width and the distance from the back of the upholstery to the front edge of the seat must be not less than 35.5cm.
- 13.2 Occasional seats must be so arranged as to rise automatically when not in use. When not in use, they must not obstruct doorways.
- 13.3 The near-side occasional seat must be of swivel type in order to accommodate the needs of passengers with physical disabilities, unless;
- a. *the vehicle was licensed prior to these Conditions of Fitness being adopted and this facility was not installed, or*
 - b. *the vehicle is newly presented for licensing and this facility is currently not available as an option; where this is the case this condition will not be implemented for 12 months, and will apply to all newly presented vehicles for licensing from 15 November 2014 (allowing manufacturers / suppliers time to comply).*
- 13.4 The rear seat dimensions must be adequate to carry the appropriate number of adult passengers comfortably.
- 13.5 Suitable means must be provided to assist persons to rise from the rear seat with particular attention to the needs of the elderly and disabled.
- 13.6 Lap and diagonal seatbelts must be fitted on all seats (including rear facing seats).
- 13.7 Colour contrasting sight patches are required on all passenger seats.
- 13.8 Head restraints must be fitted for all (forward and rear facing) seats. The design of headrests should maximise rear sightlines for the driver when any of the passenger seats are not occupied.
- 13.9 An induction loop system (or equivalent) must be fitted.

14. Driver's compartment

- 14.1 The driver's compartment must be so designed that the driver has adequate room, can easily reach, and quickly operate, the controls.
- 14.2 The controls must be so placed as to allow reasonable access to the driver's seat and, when centrally placed, controls must be properly protected from contact with luggage.
- 14.3 Every vehicle must be provided with an approved means of communication between the passenger and the driver. If a sliding window is fitted on the glazed partition, the maximum width of the opening must not exceed 11.5cm.

- 14.4 Where a single-piece glazed partition is fitted, a facility must be provided for making payment to the driver.

15. Visibility - Driver

- 15.1 A single-piece, full width rear window must be fitted. The design of headrests should maximise rear sightlines for the driver when any of the passenger seats are not occupied.

16. Visibility - Passenger

- 16.1 The windows should maximise passenger visibility into and out of the vehicle. The top of the window line for front and side windows, when measured vertically to the top of the visible portion of the glass, must not be less than 750mm on any glass panel forward of or beside the seated passenger. The vertical distance is to be measured from the top of the uncompressed rear forward-facing passenger seat cushion to the first point of totally obscured glass.
- 16.2 The bottom of the window line for front and side windows must be low enough to afford passengers adequate visibility out of the vehicle.
- 16.3 A proportion of the window area in the passenger compartment must be available for opening by the seated passenger.
- 16.4 Windows must permit maximum visibility into, and out of, the vehicle. They must have no more than 25% tint value.
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Cc: adrian.day@peterborough.gov.uk

Dear Mr Gell

Amendments to Peterborough's Hackney Carriage Licensing Policy

Thank you for your e mail of 19 December 2013.

The current policy remains a source of concern for Allied.

In short, Peterborough has (rightly) accepted a broader range of taxis should be available locally. That was a decision made following proper consideration and consultation. The licensing conditions were amended accordingly. It was also decided that they should create a universal standard for all newly licensed vehicles, including a requirement for rear swivel seats which some passengers find very useful. Then, without consultation with Allied (or, it seems, anyone else), a decision was made to vary the policy to enable one manufacturer whose vehicle cannot comply the policy to make adjustments to their vehicle to enable it to do so and for their non-compliant vehicles to be licensed in the meantime. Had that concession been consulted upon and extended to all manufacturers, it might be lawful. For reasons that remain obscure, neither happened. The net result is that one manufacturer has ended up with a commercial advantage that brings no benefit to the taxi using public of Peterborough.

In these circumstances, Allied could proceed to propose, then bring, a judicial review and / or a *Francovich* damages claim, as you will know.

However, Peterborough, has taken a positive step towards an inclusive licensing policy, Allied does not want to seek conflict and there is a simple, and obvious alternative which is for Peterborough to extend the one year swivel seat concession to all manufactures' vehicles.

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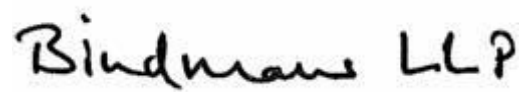
Community
Legal Service



Regulated by the
Solicitors
Regulation
Authority

Please can you ensure that the Licensing Committee gives urgent consideration to this proposal. We would be grateful for confirmation that will happen, and precisely when, within 14 days.

Yours faithfully

A handwritten signature in black ink that reads "Bindmans LLP". The letters are cursive and slightly slanted to the right.

Bindmans LLP