



WOKINGHAM BOROUGH COUNCIL

A Meeting of the **LICENSING AND APPEALS COMMITTEE** will be held in David Hicks 1 - Civic Offices, Shute End, Wokingham RG40 1BN on **WEDNESDAY 27 JUNE 2018** AT **7.00 PM**

A handwritten signature in black ink, appearing to read 'Manjeet Gill', is positioned above the printed name.

Manjeet Gill
Interim Chief Executive
Published on 19 June 2018

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WOKINGHAM BOROUGH COUNCIL

Our Vision

A great place to live, an even better place to do business

Our Priorities

Improve educational attainment and focus on every child achieving their potential

Invest in regenerating towns and villages, support social and economic prosperity, whilst encouraging business growth

Ensure strong sustainable communities that are vibrant and supported by well designed development

Tackle traffic congestion in specific areas of the Borough

Improve the customer experience when accessing Council services

The Underpinning Principles

Offer excellent value for your Council Tax

Provide affordable homes

Look after the vulnerable

Improve health, wellbeing and quality of life

Maintain and improve the waste collection, recycling and fuel efficiency

Deliver quality in all that we do

MEMBERSHIP OF THE LICENSING AND APPEALS COMMITTEE

Councillors

Chris Bowring
Mike Haines
John Jarvis
Malcolm Richards
Bill Soane

Rachel Burgess
John Halsall
Abdul Loyes
Rachelle Shepherd-DuBey
Oliver Whittle

Lindsay Ferris
Emma Hobbs
Barrie Patman
Chris Smith

ITEM NO.	WARD	SUBJECT	PAGE NO.
1.		<p>ELECTION OF CHAIRMAN To elect a Chairman for the 2018/19 municipal year.</p>	
2.		<p>APPOINTMENT OF VICE-CHAIRMAN To appoint a Vice-Chairman for the 2018/19 municipal year.</p>	
3.		<p>APOLOGIES To receive any apologies for absence.</p>	
4.		<p>MINUTES OF PREVIOUS MEETING To confirm the Minutes of the Meeting held on 21 March 2018.</p>	5 - 12
5.		<p>DECLARATION OF INTEREST To receive any declarations of interest.</p>	
6.		<p>PUBLIC QUESTION TIME To answer any public questions</p> <p>A period of 30 minutes will be allowed for members of the public to ask questions submitted under notice.</p> <p>The Council welcomes questions from members of the public about the work of this committee.</p> <p>Subject to meeting certain timescales, questions can relate to general issues concerned with the work of the Committee or an item which is on the Agenda for this meeting. For full details of the procedure for submitting questions please contact the Democratic Services Section on the numbers given below or go to www.wokingham.gov.uk/publicquestions</p>	
7.		<p>MEMBER QUESTION TIME To answer any member questions</p>	
8.		<p>CRITERIA POLICY FOR LICENSED VEHICLES To receive and consider a report outlining the Criteria</p>	13 - 52

Policy for Licensed Vehicles.

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|------------|---|------------------|
| 9. | REVIEW OF STATEMENT OF LICENSING POLICY
To receive a report containing the review of Statement of Licensing Policy. | 53 - 100 |
| 10. | REVIEW OF STATEMENT OF GAMBLING PRINCIPLES
To receive a report reviewing the Statement of Gambling Principles. | 101 - 116 |
| 11. | SUB-COMMITTEE PROCEDURE
To receive and consider a report reviewing Licensing Sub-Committees' procedure. | 117 - 122 |
| 12. | LICENSING COMMITTEE FORWARD PLAN
To consider the Licensing Committee's forward plan. | 123 - 124 |

Any other items which the Chairman decides are urgent.

A Supplementary Agenda will be issued by the Chief Executive if there are any other items to consider under this heading.

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**MINUTES OF A MEETING OF THE
LICENSING AND APPEALS COMMITTEE
HELD ON 21 MARCH 2018 FROM 7.00 PM TO 8.25 PM**

Committee Members Present

Councillors: Barrie Patman (Chairman), John Halsall (Vice-Chairman), Lindsay Ferris, Mike Haines, Emma Hobbs, John Jarvis, Abdul Loyes, Malcolm Richards, Beth Rowland, Chris Smith and Wayne Smith

Officers Present

Luciane Bowker, Democratic & Electoral Services Specialist
Laura Driscoll, Principal Officer, Public Protection Partnership
Roxana Khakinia, Legal Advisor
Julia O'Brien, Licensing Team Manager

34. APOLOGIES

Apologies for absence were submitted from Councillors Chris Bowring, Philip Mirfin and Bill Soane.

35. MINUTES OF PREVIOUS MEETING

The Minutes of the meeting of the Committee held on 21 November 2017 were confirmed as a correct record and signed by the Chairman.

Matters Arising

Councillor Ferris asked for an update on the Pet Shop licence conditions.

Laura Driscoll, Principal Officer, Public Protection Partnership stated that since the last meeting of the Committee the government had started the process of setting out new regulations in relation to animal licensing as a whole, which were due to come into effect in October. In view of this, it had been decided to put on hold the modifications to the local policy until after the implementation of the national regulations, the Committee may be asked to review Pet Shop conditions in November.

The Chairman stated that the government proposed to create a single licence for all animals covering all areas of concern, including franchising.

Laura Driscoll stated that a model set of conditions were being developed which was going to cover all the areas that the Committee had raised concerns about.

In relation to puppy's legislation, Laura Driscoll confirmed that there was going to be a separate strengthened legislation to deal with puppies licence.

36. DECLARATION OF INTEREST

There were no declarations of interest.

37. PUBLIC QUESTION TIME

There were no public questions.

38. MEMBER QUESTION TIME

There were no Member questions.

39. SAFEGUARDING TRAINING FOR LICENSED DRIVERS

The Committee considered the Safeguarding Training for Licensed Drivers report which was set out in agenda pages 11-14.

Laura Driscoll stated that a consultation had been carried out with approximately 400 licensed drivers and only one response had been received. However, Laura believed that the respondent had not fully understood the purpose of this safeguarding training. The training was not intended to teach drivers not to do something wrong, but to increase awareness to help taxi drivers to understand potential safeguarding issues with vulnerable groups.

Laura Driscoll explained that the training was intended for all existing drivers and new drivers. Condensed refresher training would also be required every three years.

In response to a question Laura Driscoll explained that PPP referred to Public Protection Partnership, this partnership involved Wokingham, Bracknell and West Berkshire.

Upon being put to the vote all Members were in favour of implementing the safeguarding training.

RESOLVED That:

- 1) The Committee agrees to the introduction of mandatory safeguarding training for all new and currently licensed drivers with immediate effect;
- 2) All licensed drivers to be required to sit refresher training every three years.

40. CRIMINAL CONVICTIONS POLICY FOR LICENSED DRIVERS AND OPERATORS

The Committee considered the Criminal Convictions Policy for Licensed Drivers and Operators report which was set out in agenda pages 15-28.

Laura Driscoll stated that as part of the review process a consultation had been carried out. Approximately 400 letters were sent out to drivers and operators, however no responses were received.

Laura Driscoll explained that it was good practice to keep policies under review and where necessary to update them, to better reflect the present need within the local area and national agenda. It was hoped that the review would strengthen the policy and make it clearer.

Laura Driscoll pointed out that page 28 of the agenda contained a list of the key proposed changes to the current policy.

During the discussion of the item the following comments were made;

- The Chairman pointed out that this was a national issue and it was hoped these proposals would bring the local policy in line with other national policies;
- Councillor Ferris was interested to know how the policy was applied in practice. Julia O'Brien, Licensing Team Manager explained that where a driver was found to have convictions, he/she would be invited to a meeting with a Licensing Officer to talk about

possible mitigating circumstances. If the licence was refused the driver had the right of appeal;

- Councillor Rowland related a case that had gone to an appeals panel where the driver was applying to conduct school children. She was concerned that the policy did not specify special conditions for drivers who were going to be working with children;
- Laura Driscoll explained that it was difficult to distinguish a policy for vulnerable groups, she stated that it was more appropriate for school transport to set higher standards if that was felt necessary;
- Laura Driscoll stated that an appeals panel may take into consideration the type of work a driver was going to undertake when making its decision;
- The Chairman stated that school drivers were often accompanied by an escort. However, Councillor Rowland stated that it was impossible to know if a driver was under the influence of drugs whilst driving; and
- In response to a comment Laura Driscoll explained that it was not in the remit of an appeal panel to review a court's decision; it was up to the panel to decide how much weight to give to the court's decision and previous criminal convictions.

Upon being put to the vote the Committee decided in favour of the recommendation.

RESOLVED That the Committee agreed to implement the new criminal convictions policy for licensed drivers and operators with immediate effect.

41. CRITERIA POLICY FOR LICENSED VEHICLES

The Committee considered the Criteria Policy for Licensed Vehicles which was set out in agenda pages 29-36.

Laura Driscoll read out an email that she had received from Suzanne McLaughlin, Senior Environmental Health Officer, containing her recommendation for the Committee's consideration:

Environmental Quality Team welcomes the proposal to amend the Criteria Policy for Licensed Vehicles to reflect the changes in vehicle technology and alternative fuels and improve the air quality in Wokingham Borough. They wish to be consulted on the proposals.

The Committee is asked to consider the Euro emission standards when making its decision.

Members were asked to consider the start of a consultation exercise in respect of amendments to the policy containing the criteria for licensed vehicles.

During the discussion of the item the following comments were made:

- Laura Driscoll asked Members to take into account the three quality air areas in the Borough;
- Members were informed that there were three Air Quality Management Areas in the Borough (M4, Twyford Crossroads and Wokingham Town Centre), all declared due to the exceedance of road transport emissions (nitrogen dioxide);
- Councillor Jarvis strongly supported the proposals as they promoted lower pollution levels;
- Most Members were in favour of promoting lower emission cars;

- Councillor Richards believed that the age of a car covered a wider range of issues, not just emissions and he wondered if it was possible to combine the age of the vehicle and emissions within the policy;
- Laura Driscoll stated that the Committee could opt to favour the use of Euro 5 but the age of the vehicle would then change to 8 years; she proposed to look at what other local authorities were opting for;
- Councillor Rowland was keen to encourage the use of petrol or electric cars rather than diesel cars;
- Laura Driscoll suggested that it was possible to apply different charges depending on the type of fuel used by the car;
- Laura Driscoll pointed out that in order to encourage electric cars, the policy would have allow for lower engine capacity;
- Councillor Ferris suggested including a target in the policy for vehicles to move towards more friendly fuel types by a certain date;
- Councillor Ferris asked how this policy applied to vintage cars. Laura Driscoll stated that wedding cars did not have to be licensed;
- In response to a question Laura Driscoll stated that she expected that the law would have to be changed in the future to address issues such as driverless vehicles; and
- Laura Driscoll pointed out that one of the proposals was to change the age of the vehicle from 15 years to 10 years;

After a robust discussion the Committee agreed to carry out a consultation, keep the standard rules (not the Euro emissions rules) and review the policy at a future meeting taking into account the responses.

Members asked that the consultation included questions in relation to the use of different types of fuel, to gage the drivers' views on this issue.

RESOLVED That:

- 1) The Committee agreed that a consultation exercise would be carried out with all existing hackney carriage and private hire licence holders and any other interested parties in respect of amendments to the policy containing the criteria for licensed vehicles; and
- 2) Any responses to the consultation would be reported for consideration at a future meeting of the Committee.

42. REVIEW OF STATEMENT OF LICENSING POLICY

The Committee considered the Review of Statement of Licensing Policy report which was set out in agenda pages 37-52.

Laura Driscoll stated that the proposed policy was similar to the previous one, with the addition of a consultation in relation to the Cumulative Impact Policy.

Laura Driscoll stated that various persons would be consulted, as per list in the report. Councillor Hobbs suggested adding religious societies to the list of consultees, she would send Laura contact details for those.

The Committee was unanimously in favour to start a consultation as proposed in the report.

RESOLVED That:

- 1) The Committee agreed to commence with the proposed revised policy at Annex A of the agenda; and
- 2) For the matter to return for consideration at the next meeting in June, prior to Council approval.

43. REVIEW OF STATEMENT OF GAMBLING PRINCIPLES

The Committee considered the Review of Statement of Gambling Principles report which was set out in agenda pages 53-84.

Laura Driscoll stated that there were only minor changes from the previous policy.

During the discussion of the item the following comments were made:

- In response to a question Laura Driscoll informed that there were no casinos in Wokingham Borough;
- The Chairman informed that the decision not to allow casinos in Wokingham had been made a long time ago by the Council;
- Councillor Haines was interested in the regulation around gambling machines. Laura Driscoll explained that there was a cap of £30 on gambling machines;
- Laura Driscoll believed that there were three gambling machines in every betting shop. They were not supposed to be used by vulnerable people and premises were expected to adopt self-restricting rules;
- Laura Driscoll informed that Officers inspected betting shops and gambling machines were supposed to be visible; and
- In response to a question Laura Driscoll stated that the Local Authority could limit the number of betting shops in an area.

After much consideration, the Committee was in favour of going out to consultation.

RESOLVED That:

- 1) The Committee agreed for consultation to commence with the proposed revised policy; and
- 2) For the matter to return for consideration at the next meeting in June prior to Council approval.

44. COMPLIANCE WITH THE HACKNEY CARRIAGE WHEELCHAIR ACCESSIBILITY POLICY

The Committee received a paper which had been produced by a Licensing and Appeals Panel that had been hearing appeals in relation to suspensions of hackney carriage licences.

Julia O'Brien explained that last year it was brought to the Licensing Authority's attention the fact that the documentation required to prove that a vehicle was wheelchair accessible did not guarantee that a vehicle was compliant with the policy. As a result it was decided that checks would have to be carried out. The Licensing Team started the process by checking the vehicles that were more likely to be in breach of the policy. 17 cars were checked last November, 9 failed the test and had their licenses suspended, 6 had

appealed to the decision. There were approximately 100 hackney carriages in the fleet and it was the Licensing Authority's intention to carry out tests with all of them.

Laura Driscoll stated that the proposed new policy included measurements (page 35 of the agenda), and that future panels could use these to guide them in making their decisions.

During the discussion of the item the following comments were made:

- Councillor Ferris stated that it was necessary to include measurements in the policy;
- The Chairman stated that the vehicles concerned had never carried wheelchair passengers;
- Councillor Richards stated that some drivers had been licensed for 10-12 years and were now having their licence suspended, with no changes in policy;
- Councillor Richards stated that the Panel had tried to be consistent and to consider the loss of income to the drivers;
- In response to a question Julia O'Brien stated that it had been a Council decision that the entire fleet of hackney carriage had to be wheelchair accessible;
- Councillor Haines stated that in his experience wheelchair users would call and organise a taxi in advance, wheelchair users were unlikely to hail a cab. He also noted that Ford Galaxi's were some of the biggest cars available and still they were not big enough for a wheelchair;
- The Chairman stated that it was expected that drivers would have their cars modified in order to make them wheelchair accessible;
- Councillor Wayne was concerned that there were a further 80 vehicles to be checked and this was a very difficult situation which could potentially generate a high number of appeals;
- In response to a question Laura Driscoll stated that most hackney carriage drivers were self-employed;
- Councillor Ferris pointed out that the documentation provided to the drivers was confusing and he was concerned with possible legal challenges;
- Councillor Jarvis pointed out that converting vehicles was very costly and he was concerned that the fleet may reduce significantly;
- Laura Driscoll explained that the Local Authority could create a list of wheelchair accessible vehicles;
- Councillor Richards suggested the introduction of two levels of approval: one for vehicles that could take a folded up wheelchair, for those passengers that were able to sit in the car; and one for those that could take a wheelchair in the back of the car;
- Laura Driscoll explained that hackney carriages had to be wheelchair accessible, private hire vehicles did not; and
- In response to a question Roxana Khakinia, Legal Advisor to the Appeals Panel, stated that each case had been determined on its own merits.

Members were concerned that this issue had to be resolved in a timely manner. After much discussion it was agreed that the whole fleet would be tested (but no further suspensions would be issued yet), and that the Committee would be informed of how many vehicles were not compliant with the policy. The Committee would make any necessary recommendations based on this information and the consultation that was due to be carried out.

The Chairman stated that if necessary an extraordinary meeting would be convened to discuss the criteria policy for licensed vehicles.

RESOLVED That:

- 1) The Committee would be kept informed on the development of the criteria policy for licensed vehicles;
- 2) The Committee would be kept informed on the outcome of appeals hearings;
- 3) An extraordinary Licensing Committee meeting would be convened if necessary.

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TITLE	Criteria Policy for Licensed Vehicles
FOR CONSIDERATION BY	Licensing and Appeals Committee 27 June 2018
WARD	Non-specific
DIRECTOR	Sean Murphy - Public Protection Manager

OUTCOME / BENEFITS TO THE COMMUNITY

It is good practice to keep policies under review and where necessary update them so they better reflect the present need within the local area and national agenda. The amendments proposed to the policy are with a view to improving the quality and overall standard of the vehicles being licensed by the Council, and also allow the licensing of electric vehicles. The other changes proposed seek to provide clarity in respect of tinted windows and wheelchair accessibility to ensure licence holders are clear about the requirements for a vehicle to be suitable for licensing.

RECOMMENDATION

That the Committee considers the results of the consultation and agrees the proposed amendments to the criteria policy for licensing of vehicles as outlined at Annex A, subject to the amendment to the measurements for accessibility as highlighted in the table of responses within the report, and any further amendments the Committee may wish to make.

SUMMARY OF REPORT

The comments received during the consultation process are attached as annexes to the report, and have been summarised below with officer observations on those comments.

Background

Attached at Annex A is the document which was sent out for consultation, with the proposed amendments shown in bold italics under the relevant current section.

The responses to the consultation are attached at Annexes B to H. Five of the responses (Annexes B to F) are individual responses from licensed drivers. A response was received from Wokingham Borough Hackney Carriage Association on behalf of their members (approximately 50 licensed drivers) and this is at Annex G. One further response was received from the Environmental Quality Team, which can be found at Annex H.

The key issues highlighted in the responses at Annexes B to G appear to be as outlined in the following table, with officer response to the comments as appropriate in the second column.

Annex	Comment	Officer response
B	Would like exception made for existing licensed vehicle which has tinted windows and no air conditioning for passenger comfort	
C, D, F and H	<p>Against proposed reduction of age limit, existing licensed vehicles should be entitled to remain licensed up to 15 years of age.</p> <p>Mileage checks will encourage mileage tampering.</p> <p>An independent organisation should assess the vehicle for suitability.</p>	<p>The proposed extension to age limits as set out in 2.5.4 seeks to allow extensions where appropriate.</p> <p>Mileages can be recorded on inspections to ensure there is a history and pattern of use, to prevent mileage tampering.</p> <p>Officers will look into the use of an independent organisation to carry out age of vehicle extension inspections, but it should be noted that this may not be viable and may carry an additional cost which would fall on the trade to cover.</p>
C	Neighbouring authorities do not have a wheelchair policy	West Berkshire does have a wheelchair accessibility policy along with Bracknell Forest and Reading. According to DfT statistics, 58% of licensed taxis in England were wheelchair accessible at the end of March 2017, and 183 authorities (62%) required wheelchair accessible vehicles in all or part of their fleet.
D	Decision made by the Council under s163 of the Equality Act is illegal	This part of the Equality Act is not in force; officers compiling this report are not aware of any suggestion that we are using said provision.
D, G	Council should make provision for hybrid and electric vehicles (annex D suggests these cannot take wheelchair users)	It has been noted that electric wheelchair accessible 'TX' vehicles are already in operation in London, and the Nissan eNV-200 is another example of an electric wheelchair accessible vehicle.
E	Suggestion that vehicles with M1 certification are suitable for wheelchair access	Definition of category M1 by VCA: Vehicles designed and constructed for the carriage of passengers and comprising no more than eight seats in addition to the driver's seat.
E, F and G	Comments on size requirements for wheelchair space	<p>The initial proposed size requirements came from the DfT, in respect of public service vehicles.</p> <p>However following additional research and the comments</p>

		<p>received, it is proposed to amend the measurements to the following:</p> <p><u>The door shall be of minimum usable dimensions 745mm wide x 1350mm high to gain access to the wheelchair space. The wheelchair space shall be at least 1250mm long x 780mm wide with 1370mm headroom minimum.</u></p> <p>Using the eNV-200 as mentioned above, this has the following specification:</p> <p style="padding-left: 40px;">Entry height: 1418mm Headroom: 1470mm Floor length: 1250mm Door width: N/K Ramp width: 735mm</p> <p>And same for the TX vehicle:</p> <p style="padding-left: 40px;">Entry height: 1370mm Headroom: N/K Floor length: 1280mm Door width: 842mm Ramp width: 714mm</p>
E, F	Comments on the proposed list of designated vehicles under the Equality Act 2010	<p>Section 167 of the Act permits authorities to maintain a designated list of wheelchair accessible taxis and PHVs. Whilst authorities are under no specific legal obligation to maintain a list under section 167, the Government recommends strongly that we do so. Without such a list the requirements of section 165 of the Act do not apply, and drivers may continue to refuse the carriage of wheelchair users, fail to provide them with assistance, or to charge them extra. The list will help ensure that passengers in wheelchairs are better informed about the accessibility of the taxi and PHV fleet in their area, confident of receiving the assistance they need to travel safely, and not charged more than a non-wheelchair user for the same journey.</p>
G	Written confirmation of vehicles which meet each Euro NCAP category will be useful	<p>Officers will look to develop this if the policy is introduced. There is a similar document already in use in other local authority areas</p>

G	Dispensation vehicles should not be allowed to breach the VOSA guidelines in respect of tinted windows	The proposal for dispensation vehicles to be exempt is only in respect of rear windows – the VOSA guidelines do not cover these windows
G	Vehicle type approval – does this affect existing vehicles?	To clarify, this is in respect of new vehicle licences issued and would not be applied retrospectively, and seeks to avoid situations where drivers may purchase an unsuitable vehicle. The policy is flexible to allow other type approvals if the vehicle meets all requirements and has certification to prove the vehicle is fit for purpose
G	All new hackney carriages should be wheelchair accessible, have ECWVTA certification and be either hybrid, electric or capable of producing zero emissions	
G	All licensed vehicles should be transferable	
G	There should be a specific tariff for Henley Regatta	Not relevant to vehicle policy, but officers will consider as a future item
G	Smaller engine sizes should be incorporated	This is the reason behind the suggestion to remove vehicle engine size and replace with Euro NCAP categories which denote the size of vehicles deemed appropriate for use as licensed vehicles, to ensure passenger comfort
G	Driver appearance and dress code	Not relevant to vehicle policy, but officers will consider as a future item
G	Licensed vehicles user surveys	The consultation was added to the Council's portal, no comments were received from the public

Analysis of Issues

If the authority does not have a robust policy in place then there is an increased risk of successful challenges to decisions made by the Council.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough

Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	No impact	N/A	N/A
Next Financial Year (Year 2)	No impact	N/A	N/A
Following Financial Year (Year 3)	No impact	N/A	N/A

Other financial information relevant to the Recommendation/Decision
None

Cross-Council Implications
There are no implications arising from the recommendation in this report.

List of Background Papers
TXD059 Hackney Carriage and Private Hire Licensing Policy

Contact Laura Driscoll	Service Public Protection Partnership
Telephone No 01344 352517	Email laura.driscoll@westberks.gov.uk
Date 12 June 2018	Version No. 1.2

**Excerpt from TXD059
Policy in relation to Hackney Carriage and Private Hire Vehicle Licences**

2.1 General

No proposed changes

2.2 Vehicle Standards

2.2.1 No vehicle shall be licensed unless it;

- i. has undertaken and passed the Hackney Carriage and Private Hire Vehicle Test, at a Wokingham Borough Council nominated garage.
- ii. is right hand drive, except where the vehicle is a stretch limousine
- iii. can carry a minimum of four passengers (excluding the driver)
- iv. has a minimum of four doors for driver and passenger access and egress.
- v. has an engine capacity of 1599cc or above
- vi. provides a clear seat width of at least 16 inches for each passenger
- vii. has a seat depth of at least 17.5 inches
- viii. has a knee space of at least 21.5 inches (measured from the rear of the seat in front to the front of seat)
- ix. has a rear height of at least 30 inches (top of the seat to the roof; measured from the point of contact between the seat cushion and the back of the seat).
- x. has no more than 8 passenger seats (in addition to the driver's seat).
- xi. has provision for every passenger to wear a seat belt. A sign must be displayed inside the vehicle requiring seat belts to be worn.

Amend to remove from 2.2.1 (iii-x) and replace with the following:

From *date TBC*, new vehicle licences shall only be issued for vehicles which fall within the following Euro NCAP categories:

- (i) Large family***
- (ii) Executive***
- (iii) Small MPV (for 4 passengers only)***
- (iv) Large MPV***
- (v) Large Off-Road 4x4***

Any vehicles which do not fall within the appropriate Euro NCAP may be considered for licensing on a case by case basis. In particular it is envisaged that exceptions could be made for 'green' vehicles such as the Toyota Prius. However these vehicles will only be licensed for an appropriate number of passengers depending on the number of seats and internal dimensions of the vehicle, with a minimum seat width and depth of 16" (41cm) per passenger. It is recommended that prior to purchasing any such vehicle, advice be sought from the Licensing Team.

2.2.2 Vehicles with tinted windows will be considered, however, the glass on the driver's compartment must satisfy the standards contained in the Road Vehicles (Construction and Use) Regulations 1986.

Amend to remove and replace with the following:

All licensed vehicles (except for private hire vehicles with a dispensation) must meet the following requirements:

(i) Light transmitted through the windscreen must be at least 75%

(ii) All other windows (both front and rear) must allow at least 70% of light to be transmitted

Where currently licensed vehicles have factory tinted/privacy glass fitted and are able to provide documentary evidence of this, they will remain licensed until the vehicle reaches the maximum licensable age in accordance with the existing age of vehicle policy.

Where currently licensed vehicles have had a tinted film fitted to the vehicle (i.e. not factory fitted at time of manufacture), they will be required to have the film removed prior to the next vehicle inspection. Failure to do so will result in the vehicle failing the inspection.

2.2.3 and 2.2.4 No proposed changes

2.3 Additional Requirements for Stretch Limousines

No proposed changes

2.4 Insurance

No proposed changes

2.5 Age of vehicles

2.5.1 No proposed changes

2.5.2 When making a Hackney Carriage vehicle licence application, a vehicle must be less than five years old from the date of first registration, unless the application is for the renewal of a licence. No Hackney Carriage vehicle licence will be issued for a vehicle that exceeds 15 years old, from the date of first registration.

Amend to remove and replace with the following:

When making a Hackney Carriage vehicle licence application, a vehicle must be less than five years old from the date of first registration, unless the application is for the renewal of a licence. No Hackney Carriage vehicle licence will be issued for a vehicle that exceeds 10 years old from the date of first registration.

2.5.3 No proposed changes

Add new condition 2.5.4 as follows:

2.5.4 In cases where a vehicle has done an abnormally low mileage and is in exceptional condition (see below), it may, on application, be granted an extension on the age limit. Any such application must be received in writing by the Licensing Team at least 3 months prior to the date upon which the vehicle reaches its age of vehicle expiry date. The vehicle may be subjected to a visual inspection. The vehicle owner will receive a decision in writing within 10 working days after the inspection. Any extensions granted may be subject to certain conditions.

Abnormally Low Mileage

The Council will not regard a vehicle as having travelled an abnormally low mileage in the following circumstances:

- 1. A vehicle intended for normal private use with a mileage in excess of 200,000 miles, or**
- 2. A wheelchair accessible vehicle with a mileage in excess of 300,000 miles, or**
- 3. A private hire vehicle which meets the criteria to be licensed with a dispensation with a mileage in excess of 300,000 miles.**

Exceptional Condition

A vehicle will not be regarded as in “exceptional condition” unless documentary evidence has been presented to the Council that the vehicle has been regularly serviced and maintained in line with the manufacturer’s servicing schedule.

When considering the exterior and interior of the vehicle the following matters will be taken into consideration in judging if the condition is exceptional. A single item, depending upon the extent of damage or cosmetic appearance, will not necessarily result in refusal to extend the use of the vehicle but 2 or more items in all areas will require correction, replacement or repair for an extension to be granted.

Exterior of vehicle

- 1. The exterior paintwork on the vehicle should not:**
 - a) shows signs of rusting**
 - b) be faded or show signs of mismatched paint repairs**
 - c) have 5 or more stone chips greater than 2mm in length in any direction**
 - d) have 8 or more stone chips of any size**
 - e) have any scratches, cracks or abrasions where the top layer of paint has been removed.**
- 2. The exterior bodywork of the vehicle should not:**
 - a) have 2 or more dents greater than 10mm in length in any direction**
 - b) have 4 or more dents less than 10mm in length in any direction**
 - c) have fittings that are missing, broken or damaged.**
- 3. Have wheels and wheel trims that have significant damage which detracts from the overall excellent condition of the vehicle.**

4. ***The vehicle must be submitted for inspection in a clean state such that an effective inspection is possible. Should the vehicle be submitted in an unclean state then the application shall be refused.***
5. ***The engine compartment must not be in a dirty condition or have evidence of leaks including water, oil or hydraulic fluids.***

Interior of vehicle

6. ***The seating and carpet areas of the vehicle shall not show signs of:***
 - a) ***staining***
 - b) ***damp***
 - c) ***fraying or ripping of the material***
 - d) ***seat covers that are loose or badly fitted.***
7. ***The seats should provide sufficient support for comfortable travel and should not demonstrate excessive compression of the seating area or wear within the support mechanism.***
8. ***Interior panels and fittings within the vehicle should not be damaged nor show excessive wear, or staining.***
9. ***The interior of the vehicle should not have damp or other obnoxious smells.***

2.6 Advertising

No proposed changes

2.7 Temporary Replacement Vehicles

No proposed changes

2.8 IVA

No proposed changes

2.9 Disabled Access

2.9.1 Vehicle Standards

A Hackney Carriage Vehicle licence will not be issued (other than by way of renewal) to any vehicle, unless it is accessible for disabled persons. All vehicles subject to a Hackney Carriage Vehicle application and those Private Hire Vehicles which have been adapted or manufactured for disabled access must comply with the following standards in addition to those detailed in the paragraphs above;

- i. The vehicle must be able to accommodate a fully grown adult passenger **whilst seated** in their wheelchair (i.e. there must be adequate headroom for the passenger).

- ii. Seats should not have to be removed to in order to accommodate a wheelchair.
- iii. The ramp(s) must be carried within the vehicle at all times. There should be suitable means of securing the ramp(s) safely away, this should include an adequate locking device to ensure that the ramp(s) do not slip or tilt when they are used.
- iv. There must be a means of securing both the wheelchair and its occupant when the vehicle is in motion.
- v. Seats must be suitable to allow all persons, in particular the elderly and disabled, easy access into and egress out of the vehicle. Additional handholds/grab rails and a portable step should be provided if necessary.

Amend to add the following to 2.9.1

All wheelchair accessible vehicles must be capable of accommodating an adult in a DfT reference wheelchair in the passenger compartment. A wheelchair space shall not be less than—

- (i) 1300mm measured in the longitudinal plane of the vehicle;***
- (ii) 750mm measured in the transverse plane of the vehicle; and***
- (iii) 1500mm measured vertically from any part of the floor of the wheelchair space;***

Any entrance or exit which is intended to provide access for a wheelchair user shall have a clear unobstructed width of not less than 800mm.

2.9.2 Vehicle Type Approval

Where a vehicle has been manufactured for disabled access, the applicant will need to provide a VCA certificate confirming that the vehicle has been built in compliance with British Safety and Environmental Standards.

Amend to remove and replace with the following:

All vehicles that are designed to accommodate wheelchair users must have all modifications and adaptations, including all seats, seat belts and anchorages, retested to meet either the European Whole Vehicle Type Approval or the UK Low Volume Type Approval in the M1 category (evidence of this must be produced). Those 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 that category. Vehicles may be inspected for suitability by an officer. It is recommended that prior to purchasing any new vehicle, advice be sought from the Licensing Team.

NB A technical specification with regard to the dimensions and standards required of wheelchair accessible vehicles may be introduced by the Department for Transport under the Act at some time in the future.

Roof Signs

No proposed changes

2.10 Dispensation Certificates

No proposed changes

Dear Sir/Madam,

I am writing in regards to new taxi policy amendment.

I would like to ask you to reconsider the section in regards to window films(tinted window).

Currently my car has tinted passenger windows. This is purely against the sun. Otherwise my car gets red hot in sunny days and causes a lot of discomfort for passengers.

Due to the wheelchair access modification, manufacturer fitted five extra windows.

My car does not have factory fitted air conditioner.

That is why I would like to ask you to give exception or make an amendment accordingly.

King regards

REDACTED

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To whom it may concern,

The age limit should be relaxed for the drivers who are suffering by the recent enforcement action. It is not fair to blame only the drivers for the recent crisis. As the council has principally accepted the lack of policy guidance is the result of the recent crisis many times.

Reducing the age limit to 10 years as another insult to the injury and drivers will suffer even more rather than given any relaxation.

In regards to the wheelchair policy, it is reminded again that there is no such law which ask the council to introduced all of the hackney fleet as wheelchair accessible. It is recommended however, to have a few of them to be included on designated list. But even that is not obligatory by law. And that is the case with our neighbor hood council's like south Oxfordshire , West Berkshire and Fleet there is no wheelchair policy.

So until the DFT does not provide any legal specifications, we will again make changes to the policy, and as a result, it's only drivers who will have to spend hundreds of thousands to change the vehicles again.

Some one is seriously misguiding the council about the law and it's application.

REDACTED

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BETWEEN:
Wokingham Borough Council
Taxi licensing Authority

V.

Petitioner:
Address:
Vehicle:
Date: 7th, June 2018

For Committee Meeting to Consider

Public Body:

- 1 Wokingham Borough Council (WBC), is a Public Body which makes decisions regarding public law, where we the taxi drivers are directly concerned. My concern is that the decision-making and policy-making process may be correct. However, the correct person may not be using the correct power which has followed the correct procedures and may have not considered all of the facts when making the decision.

The Decision Maker:

- 2 The decision maker WBC must understand the law correctly that regulates their decision making power and give effect to it and must not misinterpret legislation. I believe that the decision made by WBC under s.163 of the Equality Act 2010, without considering Exemption from taxi accessibility regulations s.164 (1) (2) of the Equality Act 2010 is an issue of Illegality, Irrationality and Procedural impropriety. The Decision Maker must consider all facts listed in this report.

Hybrid and Electric Vehicles:

- 3 I am also concerned that the decision maker has not considered or made any provisions in the Policy for Hybrid and Electric Hackney Carriage Taxis as diesel vehicles are being demonised by experts in the motor industry for contributing heavily to Carbon dioxide (Co2) emission. Every authority in the UK/EUROPE is moving towards hybrid and electric vehicles and have a set policy in place. As far as I can see there is no such policy in place by WBC for hackney carriage taxis. Hybrid and Electric Vehicles that are available currently in the market cannot take wheelchair. Therefore, provision must be made for exemption under s.164 (1) (2) of the Equality Act 2010.

Ambiguous and Imbalance Policy:

- 4 WBC's hackney carriage licencing policy has been very ambiguous and imbalanced, for this reason many taxi drivers made financial losses by purchasing and investing money in vehicles that may or may not be suitable for the purpose of wheelchair access. I believe that WBC has failed to formulate a fair policy and for this reason taxi drivers are suffering losses by not purchasing suitable vehicles that are fit for purpose.

Suspension of Hackney Carriage:

- 5 WBC has taken a decision to suspend Hackney Carriage vehicles under s.60 (1a) Local Government (Miscellaneous Provisions) Act 1978, as these vehicles fail to comply with the disable access requirement of WBC hackney carriage policy in November 2017. By suspending these vehicles immediately; off the road, had adverse immediate effect on livelihoods of taxi drivers and their family members who are depended on the taxi drivers' household income. Furthermore, WBC has allowed and licensed these vehicles for many years and these vehicles did comply with requirements set by WBC at the time of licencing. When taxi drivers purchased these vehicle for the purpose of Taxi business they were informed by WBC that these vehicles can be used for Taxi business until these vehicles reached 15 years from first registration.

Fair Policy:

- 6 WBC needs to formulate a fair policy and allow existing taxi drivers to continue with taxi service until their vehicle reaches 15 years from first registration and the following purchasing vehicle can be fully in compliance with WBC new hackney carriage policy. As the taxi drivers have spent large amount of their life savings on these vehicles and some are looking forward to retiring in a few years' time.

Taxi Drivers over the age of 55:

- 7 Consideration needs to be given to taxi drivers over 55 years of the age as some of these taxi drivers are near the retiring age and it will be an unfair burden for these taxi drivers to spend their life savings in buying new vehicles for hackney carriage.

In the light of my comments above in this report to the committee, I, urge the decision maker to consider all circumstances and exempt some hackney carriage taxis from wheelchair access. Furthermore, taxi drivers over the age of 55 must be given attention in accordance to the policy of a vehicle reaching the 15 years from first registration. In relation to this the loyalty of taxi drivers working with WBC should be considered. A fair policy to allow hybrid and electric vehicles for hackney carriage must also be considered.



For and on behalf of
All Wokingham Hackney Carriage Drivers
Date: 27/05/2018

For The attention of
Mrs Karen Court
Mrs Julia O'Brian
Mrs Laura Driscoll
and all Taxi Licensing officers

I have been asked to write this letter in frustration as the result of increased distress among all Wokingham Hackney Carriage Drivers who have professionally converted vehicles recognised by DVLA, in response to your requested assessment on our vehicles and consultation to amend existing policy in the hope that all of you in Wokingham council Taxi licensing OFFICE will have a better understanding and an open and educated view to the reality of our very much un-respected profession.

For your information.

All our vehicles (Peugeot partner tepee, Citroen Berlingo, VW Caddy , etc) (Please find enclosed printed photos as examples) which are professionally converted with permanent and none removable ramps and lowered floor specifically designed and constructed for wheelchair use by one of the most reputable mobility companies in the world (Allied Mobility) and are used all over UK as Taxi's have an entrance height clearance of 57 inches or as you like to know (1440mm) and they also come with Nationwide accepted M1 certificate from the manufacturer which over rules your requested IVA test what has been proven time after time to be absolutely useless in the past, hence the cause of all your past mistakes.

Even the famous UK Taxi industry's icon; the Black Cab that are authorized and used all over the country including London, Reading and every other major city, are approximately 54 inches (1370mm) high at the entrance .

Therefore, we are all amazed and can not help but wonder **IF** the above vehicles are NOT adequate in your professional opinion as *office workers* and are currently subjected to scrutiny and challenge by yourselves as *professional wheelchair handlers* then would you please advise on the vehicles that you, contrary to the rest of the UK; believe to be adequate for this job.

Will it be a Long wheel base extra high top Sprinter Van or mother of all road transport vehicles; the all mighty 44 foot Articulated lorry ?

Please answer the following questions to all HC Drivers (Not just to me)

- a- Please explain how and on what bases you came up with the idea of 1500 mm or 59 inches for entrance height ?
- b- Please explain who has come up with these interesting ideas and what sort of experience and wheelchair / mobility / motor vehicle expertise and qualification do they poses ?
- c- Please define the wording you have used repeatedly in your letters and policies "Mature adult" in wheelchair ? (Age / Height /width , etc ?)
(as there is a considerable height deference between you and I whom I would like to believe can be considered as "Mature Adults").

Finally

With all due respect as human being and your position with in the local council organization, as you have proven to be totally un-knowledgeable on this field who are constantly **HARRASSING** all taxi drivers with professionally converted vehicles on this unnecessary and un-required service in Wokingham, may we please suggest strongly that **YOU** go for training on this field with experts who have spent years in research and development of these vehicles, companies like Allied Mobility ,

Also , Could we please ask for some of you to spent some time perhaps a month on the road in a TAXI as drivers and by the Ranks to observe the fact that wheelchair users **NEVER** come to the rank to get a Taxi, and the chances of seeing one is 1 in 1000,000 , ((I haven't seen or done a wheelchair job form the RANK or from the road side in 17 years)) and those colleagues of mine who have provided this service were given the jobs by **private hire firms**.

Wheelchair users in this area either have their own vehicle which are subsidised heavily by government mobility benefits or they use the phone to call for a suitable wheelchair converted vehicle from a **private hire firm**, after all you are now asking for all our phone numbers to be added to the list of service providers as private hire companies even though we work of the ranks as Hackney Carriage drivers which would result in total confusion to any one searching through hundreds of names and numbers on the list let alone a disable and wheelchair user, where it can be simplified just to a few licensed private hire firms, therefore, don't you think that this policy that you are unreasonably and aggressively enforcing should apply to all private hire firms rather than all Hackney carriage taxis ?

I would like to thank you for your time reading this letter and await for your wise and educated reply.

For and on behalf of all Hackney Carriage Drivers in Wokingham.

08/06/18

To Whom It May Concern,

Licensing @ Wokingham, Laura Driscoll, Julia O'Brien, Karen Court and Chair Licensing Appeals Committee.

As a licensed taxi driver I've been serving the Wokingham area for almost 20 years with an impeccable record. I have never been more concerned and disillusioned with the carry-on at Wokingham Borough Council (WBC), namely Taxi Licensing and the 'Powers to be' Licensing Appeals Committee.

Having been wilfully ignored for decades by WBC, my intention is to share this public document with my home town MP Rt.Hon. Ms May, Wokingham's MP Mr Redwood and not to mention your Chief Executive.

Firstly your letter dated 03/05/18 had only arrived 07/05/18; the deadline being 08/06/18, giving us barely 5 weeks for such seismic consequences, timely your perverse handy work has ultimately condemning consequences. As a practising Muslim, I would like to point out the relevant facts; Most Taxi drivers are Muslim and their way of life is Islam. Today is 22nd of Ramadan 1439AH / 07/06/18. It's wholly unfair, whilst observing fasting to retort and undertake the seismic task of determining whether my taxi is appropriate, given the fact I have already spent all of my life savings to the tune of £20,000 for my taxi vehicle which only a few years ago was presented, inspected, approved and accredited, conformed and complied with legislation Disabled Access section 2.9, in accordance to WBC's Disable Access policy.

Consideration be given to article no. 2.9.1 on the Disable access policy; to date, no measurements/dimensions have either been stated or shared with any Licensee until now. There is now a public purge on vehicles that have already been inspected, approved accordingly at that time. By the way congratulations to taxi licensing after 8 years finally printing and sharing. WBC has finally produced unrealistic dimensions, namely the minimum height clearance which stands at 1.5m. With the thinly veil threats of intimidation with your so called

'immediate suspension', what happened to rule of law, fair play, recourse and a fair and honest appeal process?

There has never been a clear precise policy presented, but in part cultivated gradually in inception from 2010. As listed below:

- Firstly, the proposal of amending the criteria of vehicle.**
- Secondly, the so called consultation, more like public purge on taxis, by the way this is from the same Council that had previously licensed half a dozen Toyota Previa's with just the one rear passenger door, where was your Health and Safety then?**
- Thirdly, the hit list of designated vehicles.**
- Lastly, the so called identification and assessment for conforming of compliance. Pointedly, having to present any new vehicle for licensing to be inspected and approved prior to purchase is tantamount in being nonsensical.**

All of the aforementioned delivered and executed in one session, barely over a few four weeks when most of the men are ignorant of matters added with a degree of illiteracy within the trade. Collectively the trade having a proven track record as always with their inadequate muted response. Thus WBC declaring open season on over worked underpaid men on low income. Forcing derisory unfair financial burdens constraints is a kin to alleviating hardship and furthermore suffering.

Firmly believe, WBC's taxi licensing and licensing appeals committee constantly in cahoots and forever hindering and never helping. Always placing insurmountable hurdles and always averse to the Licensee. Your abject failure in your duty of care easily computes as a vote of no confidence. Covertly racist and phobic to my way of life, otherwise explain why this subjugation on families surviving on low income, just barely getting by in contrast to your gold plated pension. Previously so called Councillors accepted the prestige of office and perks, nowadays they are only there to further their own ambitions. How the Powers to be sleep at night in their glass towers, seemingly rather well because the reality is no one gives a damn. From your racist Town Hall Mayor to the recently well documented institutionalised racism embedded in the Tory party, WBC is truly all Tory. The stench of double standards and hypocrisy is

rife; your so called public convening's conveniently overlooking the pre-groupies behind closed doors so called Democratic ways.

During my last 2 decades of taxiing, I have observed the cancelling of the concessionary fare travel tokens, closing of public loos and the eradication of CCTV. Case in hand egotistical ensuing arrogance; the new junction at Reading road and Station Relief road junction traffic lights has contrived in dozens of road traffic accidents, where a member of public has been killed, a close friend of one of my long standing regulars. To date still not fixed and simply all that requires is a separate right- hand filter turn signal. My conscience is clear but the powers to be have blood on their hands.

Yet another example, take a trip down memory lane; initially there was never any age limit, backwardly the committee produced outer upper limit of 15 years then finally introduced initial entry age limit of 5 years. The London black taxi overall age limit was 15 years. In Reading it was close to 20 years. Without warrant or merit, no logic and reasoning it's been chopped down to 10 years, yet another blatant example of financial foul play and condemning further hardship and misery on drivers and their family on earning pittance.

With the current onslaught of Uber and the decimation of late night trade in Wokingham, i.e. closure of Spin bar night club and the imminent closure of Gig house, Wokingham late night economy is well and truly finished. Patrons have no reason to visit Wokingham and now are attracted to the likes of (The Lexicon). Reading council has managed to ban Uber from their area, what has WBC done? Complete inaction. There are well over 100 licensed taxis with barely half a dozen taxi rank spaces available. Collectively, the taxi drivers at Wokingham train station hand over £50,000 to South Western trains. No other station for miles contributes financially. Why the drivers chose to play a part? Frankly they have no other choice as fore mentioned.

The equality act 2010 is only statutory Guidance, should be relative to local needs and therefore be proportionate. Given not all wheel chair users are wheel chair bound i.e. paraplegic thus proportional use. Has a survey ever been sanctioned in regards to unmet demand, how many wheel chair bound residence reside in the borough?

With your ongoing obsession/ fixation with every taxi to conform to Disable Access surely should be measured and relative. Your advent of the minimum height change to 1.5m criteria, no vehicle including London black cab, fairway, Vito, the New York yellow taxi Nissan NV200 which are worldwide accepted will meet the new demands. Much is a miss, that's how much WBC is out of touch with the rest of the entire world on licensing requirements.

Of late, I feel intimidated and threatened by a certain member of taxi licensing and in due course will be making a formal complaint against the individual, for the record, who's only been in their role for 5 mins with respect to my 18 years of impeccable service.

Yours Sincerely,

Wokingham Hackney Carriage License holder.

Public Protection Partnership
Environmental Health and Licensing.
Wokingham Borough Council

Wokingham Borough Hackney
Carriage Association.

Dear Sir/Madam,

PROPOSAL TO AMEND THE CRITERIA FOR LICENSING OF VEHICLES

Thank you for the opportunity to comment on the proposed amendments to the present criteria in regards to licensing of vehicles, fuel types and any additional suggestions for consideration.

Please find below the collective comments and suggestions of the WBHCA members and non-members alike who are wholeheartedly committed, through good ethics and good work practices, to the welfare and safety of the general public and therefore support any meaningful action that will enhance and reflect good ethics, good work practices, health and safety throughout the Hackney carriage trade.

Proposal - Amend to remove from 2.2.1 (iii-x) and replace with the following:

From *date TBC*, new vehicle licences shall only be issued for vehicles which fall within the following Euro NCAP categories:

(i) Large Family

(ii) Executive

(iii) Small MPV

(iv) Large MPV

(v) Large Off Road 4x4

It would be considerably helpful to have a list of vehicles that qualify for each of the above categories.

Advice provided by licensing team in regards to proposed purchase of a fit for purpose vehicle be in written format so as to eliminate confusion.

Proposal - 2.2.2 Amend to remove and replace with the following:

All licensed vehicles (except for private hire vehicles with a dispensation) must meet the following requirements:

(i) Light transmitted through the windscreen must be at least 75%

(ii) All other windows both front and rear must allow at least 70% of light to be transmitted

In regards to the proposed amendment the criteria should reflect current law as per below regarding, "Motor Vehicles first used on or after 1 April 1985: The light transmitted through the windscreen must be at least 75%. The front side windows must allow at least 70% of light to be transmitted through them, there is no reference to rear side windows."

In the UK as in the EU, all new cars are certified as legal for sale under the **Whole Vehicle Type Approval** regimen that differs from Euro NCAP.

Therefore all vehicles sold on or after 1st of April 1985 with the the **Whole Vehicle Type Approval (WVTA)** certification in EU are fully compliance with current law including transmission of light.

All vehicles licensed by Wokingham Borough Council should adhere to the law including private hire vehicles, no avenue should be made available to flout any law including the transmission of light. By allowing dispensed vehicles special status is therefore wrong and contradictory to the VOSA guidelines and the WBC vehicle license policy. Excerpt from VOSA guidelines below;

“How does excessively tinted glass affect road safety? - It restricts the driver’s vision, especially in dark conditions. This may prevent drivers from seeing other road users or pedestrians. It also prevents other road users and pedestrians from confirming through eye contact that they have been seen”

VOSA – Vehicle & Operator Service Agency – Guidelines & Advice

What is excessively tinted glass?

Road Vehicles (Construction & Use) Regulations 1986 as amended specify the minimum levels of light that must pass through the windscreen and front side windows. The limits are:

Motor Vehicles first used before 1 April 1985: The windscreen and front side windows must allow at least 70% of light to be transmitted through them.

Motor Vehicles first used on or after 1 April 1985: The light transmitted through the windscreen must be at least 75%. The front side windows must allow at least 70% of light to be transmitted through them.

If the glass is tinted to a point whereby it lets through less light, then the vehicle does not meet legal requirements.

Which windows in the vehicle does this apply to?

The windscreen and the front side windows to either side of the drivers head.

How does excessively tinted glass affect road safety?

It restricts the driver’s vision, especially in dark conditions. This may prevent drivers from seeing other road users or pedestrians. It also prevents other road users and pedestrians from confirming through eye contact that they have been seen.

What is the purpose of the law?

The purpose of the law is to ensure the drivers’ ability to see the road is not excessively restricted by glass tint.

Legally where do I stand?

If you are the driver - - You must not drive a vehicle on the road with the windscreen or front side windows excessively tinted. You may also invalidate your insurance with this modification, particularly as the vehicle is likely to be illegal. If you are a tinting company - - You must not modify, or offer to supply, a part that when fitted to a vehicle means that it does not comply with Construction & Use Regulations. If you're selling a vehicle with extra tinting applied to the windscreen or front side windows - - The vehicle may now have glass that is darker than permitted by Construction & Use Regulations, in which case the vehicle should not be sold.

Why are tinted windows not included in the MOT test?

Excessively tinted glass is seen as a serious issue but one which currently affects only a small number of the 24 million vehicles tested annually. To include this item in the MOT test would require all 18,000 garages to incur expenditure on special test equipment and the time taken to carry out an MOT would increase. The MOT fee would have to be raised to cover the extra time and investment. This extra cost would affect all motorists - all for a small number of vehicles. With the current levels of offending, roadside enforcement is a better route as it targets the offenders while minimising the cost and inconvenience to compliant road users

Is this a nationwide campaign?

Yes. VOSA staff throughout the country has been issued with testing equipment. If the equipment is not available, a subjective assessment will be carried out. If the vehicle is considered dangerous to drive then an immediate prohibition may be issued.

Proposal - 2.5.2 Amend to remove and replace with the following:

When making a Hackney Carriage vehicle application, a vehicle must be less than five years old from the date of first registration, unless the application is for the renew of a license. No Hackney Carriage vehicle licence will be issued for a vehicle that exceeds 10 years old from the date of first registration.

The WBHCA members and non-members alike strongly feel the lowering of the license duration from 15 years from first registration to 10 years is not necessary; the existing life of HC license is adequate in meeting both the WBC and its licensees requirements, especially compared with likeness to neighbouring authorities.

Perhaps on the 10th year of first registration anniversary and every annual renewal of the HC Licence until its 15 year life of licence the HC licensed vehicle be required to undergo a comprehensive inspection provided by specialised motoring organisations such as the;

RAC <https://www.rac.co.uk/buying-a-car/vehicle-inspections>,

DEKRA <https://www.dekra-expert.co.uk/vehicle.inspections/book.a.vehicle.inspection>

or such like, **this, independent, process will better serve in providing an accurate assessment of the vehicle.**

Proposal - Add new condition 2.5.4 as follows:

Add new condition 2.5.4 as follows:

2.5.4 In cases where a vehicle has done an abnormally low mileage and is in exceptional condition (see below), it may, on application, be granted an extension on the age limit. Any such application must be received in writing by the Licensing Team at least 3 months prior to the date upon which the vehicle reaches its age of vehicle expiry date. The vehicle may be subjected to a visual inspection. The vehicle owner will receive a decision in writing within 10 working days after the inspection. Any extensions granted may be subject to certain conditions.

Abnormally Low Mileage

The Council will not regard a vehicle as having travelled an abnormally low mileage in the following circumstances:

- 1. A vehicle intended for normal private use with a mileage in excess of 200,000 miles, or**
- 2. A wheelchair accessible vehicle with a mileage in excess of 300,000 miles, or**
- 3. A private hire vehicle which meets the criteria to be licensed with a dispensation with a mileage in excess of 300,000 miles.**

Exceptional Condition

A vehicle will not be regarded as in "exceptional condition" unless documentary evidence has been presented to the Council that the vehicle has been regularly serviced and maintained in line with the manufacturer's servicing schedule.

When considering the exterior and interior of the vehicle the following matters will be taken into consideration in judging if the condition is exceptional. A single item, depending upon the extent of damage or cosmetic appearance, will not necessarily result in refusal to extend the use of the vehicle but 2 or more items in all areas will require correction, replacement or repair for an extension to be granted.

Exterior of vehicle

- 1. The exterior paintwork on the vehicle should not:**
 - a) shows signs of rusting**
 - b) be faded or show signs of mismatched paint repairs**
 - c) have 5 or more stone chips greater than 2mm in length in any direction**
 - d) have 8 or more stone chips of any size**
 - e) have any scratches, cracks or abrasions where the top layer of paint has been removed.**
- 2. The exterior bodywork of the vehicle should not:**
 - a) have 2 or more dents greater than 10mm in length in any direction**
 - b) have 4 or more dents less than 10mm in length in any direction**
 - c) have fittings that are missing, broken or damaged.**
- 3. Have wheels and wheel trims that have significant damage which detracts from the overall excellent condition of the vehicle.**

Protective Marking: Unclassified

4. *The vehicle must be submitted for inspection in a clean state such that an effective inspection is possible. Should the vehicle be submitted in an unclean state then the application shall be refused.*
5. *The engine compartment must not be in a dirty condition or have evidence of leaks including water, oil or hydraulic fluids.*

Interior of vehicle

6. *The seating and carpet areas of the vehicle shall not show signs of:*
 - a) *staining*
 - b) *damp*
 - c) *fraying or ripping of the material*
 - d) *seat covers that are loose or badly fitted.*
7. *The seats should provide sufficient support for comfortable travel and should not demonstrate excessive compression of the seating area or wear within the support mechanism.*
8. *Interior panels and fittings within the vehicle should not be damaged nor show excessive wear, or staining.*
9. *The interior of the vehicle should not have damp or other obnoxious smells.*

2.6 Advertising

No proposed changes

2.7 Temporary Replacement Vehicles

No proposed changes

2.8 IVA

No proposed changes

2.9 Disabled Access

2.9.1 Vehicle Standards

A Hackney Carriage Vehicle licence will not be issued (other than by way of renewal) to any vehicle, unless it is accessible for disabled persons. All vehicles subject to a Hackney Carriage Vehicle application and those Private Hire Vehicles which have been adapted or manufactured for disabled access must comply with the following standards in addition to those detailed in the paragraphs above;

- i. The vehicle must be able to accommodate a fully grown adult passenger **whilst seated** in their wheelchair (i.e. there must be adequate headroom for the passenger).

Protective Marking: Unclassified

Abnormally Low mileage – The WBHCA members and non-members alike are of the opinion that this will encourage the use of illegal practice of mileage tampering, which is actively pursued by rogue used car traders.

Exceptional Condition

No comment

Exterior of Vehicle

No comment

Interior of Vehicle

No comment.

The above proposal of new condition **2.5.4** may best be served by **one** proficient requirement alone in that on the 10th year of first registration anniversary and every annual renewal of the HC Licence the HC licensed vehicle be required to undergo a comprehensive inspection provided by specialised motoring organisations such as the;

RAC <https://www.rac.co.uk/buying-a-car/vehicle-inspections>,

DEKRA <https://www.dekra-expert.co.uk/vehicle.inspections/book.a.vehicle.inspection>

or such like. **This, independent, process will better serve in providing an accurate assessment of the vehicle.**

Proposal - Amend to add the following to 2.9.1

All wheelchair accessible vehicles must be capable of accommodating an adult in a Dft reference wheelchair in the passenger compartment. A wheelchair space shall not be less than;

(i)1300mm measured in the longitudinal plane of the vehicle;

(ii)750mm measured in the transverse plane of the vehicle; and

(iii)1500mm measured vertically from any part of the floor of the wheelchair space;

Any entrance or exit which is intended to provide access for a wheelchair user shall have a clear unobstructed width of not less than 800mm.

This proposal should be for any new to be licensed vehicle. The “Dft reference wheelchair” has no set specifications for use in licensed taxis, below is an example of the “Dft reference wheelchair” recent adaptation in its use in the private hire industry governed by TFL, a wide ranging area;

All vehicles on the new platform will fit a wheelchair of the standard reference wheelchair size. The dimensions of the smallest vehicles on the platform have a minimum internal space of - height: 1377mm width: 783mm and length: 1320mm.

The onus is clearly with Local Authority together with the cooperation of the licensees as to the smooth viable adaptation of DfT recommendations in regards to the wheelchair access issue.

The Department for Transport - Access for wheelchair users to Taxis and Private Hire Vehicles Statutory Guidance

Vehicles that can be designated

3.3 We want to ensure that passengers in wheelchairs are better informed about the accessibility of the taxi and PHV fleet in their area, confident of receiving the assistance they need to travel safely, and not charged more than a non-wheelchair user for the same journey.

3.4 The Act states that a vehicle can be included on a licensing authority's list of designated vehicles if it conforms to such accessibility requirements as the licensing authority thinks fit. However, it also goes on to explain that vehicles placed on the designated list should be able to carry passengers in their wheelchairs should they prefer.

3.5 This means that to be placed on a licensing authority's list a vehicle must be capable of carrying some – but not necessarily all – types of occupied wheelchairs. The Government therefore recommends that a vehicle should only be included in the authority's list if it would be possible for the user of a "reference wheelchair"¹ to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair.

3.6 Taking this approach allows the provisions of section 165 of the Act apply to a wider range of vehicles and more drivers than if LAs only included on the list vehicles capable of taking a larger type of wheelchair.

3.7 The Government recognises that this approach will mean that some types of wheelchair, particularly some powered wheelchairs, may be unable to access some of the vehicles included in the LA's list. The Act recognises this possibility, and section 165(9) provides a defence for the driver if it would not have been possible for the wheelchair to be carried safely in the vehicle. Paragraph 3.10 of this guidance below aims to ensure that users of larger wheelchairs have sufficient information about the vehicles that will be available to them to make informed choices about their journeys.

Preparing and publishing lists of designated vehicles

3.8 We want to ensure that passengers in wheelchairs have the information they need to make informed travel choices, and also that drivers and vehicle owners are clear about the duties and responsibilities placed on them.

3.9 Before drivers can be subject to the duties under section 165 of the Act, the LA must first publish their list of designated vehicles, and clearly mark it as 'designated for the purposes of section 165 of the Act'.

3.10 LAs should ensure that their designated lists are made easily available to passengers, and that vehicle owners and drivers are made aware. Lists should set out the details of the make and model of the vehicle, together with specifying whether the vehicle is a taxi or private hire vehicle, and stating the name of operator. Where possible it would also be helpful to include information about

the size and weight of wheelchair that can be accommodated, and whether wheelchairs that are larger than a “reference wheelchair” can be accommodated.

3.11 However, we recognise that some passengers in wheelchairs may prefer to transfer from their wheelchair into the vehicle and stow their wheelchair in the boot. Although the legal requirement for drivers to provide assistance does not extend to the drivers of vehicles that cannot accommodate a passenger seated in their wheelchair, we want to ensure that these passengers are provided with as much information as possible about the accessibility of the taxi and PHV fleet in their area.

3.12 We would therefore recommend that LAs also publish a list of vehicles that are accessible to passengers in wheelchairs who are able to transfer from their wheelchair into a seat within the vehicle. It should be made clear however that this list of vehicles has not been published for the purposes of section 165 of the Act and drivers of those vehicles are therefore not subject to the legal duties to provide assistance. Authorities may however wish to use existing licensing powers to require such drivers to provide assistance, and impose licensing sanctions where this does not occur.

Proposal - 2.9.2 Vehicle Type Approval

Amend to remove and replace with the following:

All vehicles that are designed to accommodate wheelchair users must have all modifications and adaptations, including all seats, seat belts and anchorages, retested to meet either the European Whole Vehicle Type Approval or the UK Low Volume Type Approval in the M1 category (evidence of this must be produced). Those 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 that category. Vehicles may be inspected for suitability by an officer. It is recommended that prior to purchasing any new vehicle, advice be sought from the Licensing Team.

This section of the proposal is unclear as to its application e.g. unconverted vehicles that presently possess UK Low Volume Approval, IVA, are they affected if so why?

ECWVTA - Commonly asked questions

Q1: What is EC Whole Vehicle Type Approval (ECWVTA)?

ECWVTA is a system allowing a vehicle design to be "type approved" for sale, registration and entry into service across all member states in the EU without the need for further testing in each country. This will result in the creation of a single market by ensuring common vehicle standards.

From April 2009, legislation was extended to cover all new road vehicles such as buses, coaches, trucks, trailers (including caravans) **and certain special purpose vehicles such as wheelchair accessible vehicles (WAVs)**. The legislation will be phased in over the coming 5 years depending on vehicle category.

Q2: Who will be affected by ECWVTA?

The majority of businesses affected will be the manufacturers and converters of commercial vehicles, namely buses and coaches, goods vehicles and trailers. For a more comprehensive description of the vehicles affected please refer to the vehicle category definitions within the directive.

Two business sectors which will be particularly affected are body builders, i.e. those that take a chassis and build or modify a body of any description on it before selling it to the customer, and manufacturers of commercial vehicles imported from inside or outside Europe.

Q7: What about manufacturers only wishing to sell within the UK?

There are two separate national schemes for lower volume UK manufacturers. These are:

- National Small Series Type Approval (NSSTA)
- Individual Vehicle Approval (IVA)

The schemes are designed to maintain ECWVTA standards, whilst minimising compliance costs for low volume manufacturers, usually small to medium-sized companies.

However, unlike ECWVTA, these UK national approval schemes will not necessarily be accepted automatically by other EU member states. Producers who want to export products with national certification will have to apply directly to the Type Approval authority in the country to which they wish to export, although the Directive provides for processes to facilitate the mutual recognition of national Type Approvals.

Q8: What else can you tell me about the different approval schemes?

There are four different schemes:

1. ECWVTA is aimed primarily at manufacturers of vehicles and bodywork producing large numbers of the same vehicle type or product each year. It can be applied to complete, incomplete or completed vehicles. Achieving ECWVTA means the manufacturer can sell the product in any EU market without needing additional national tests in another EU member state. VCA is the designated UK type approval authority and can help in this area.

2. ECSSTA (EC Small Series Type Approval) has been created for low volume car producers only, and like full ECWVTA will allow Europe wide sales but with technical and administrative requirements that are more adapted to smaller businesses.

3. NSSTA (National Small Series Type Approval) is a UK national scheme for low volume manufacturers who intend to sell only in the UK. The advantages of NSSTA are a reduced CoP requirement, and reduction in administrative requirements. Like ECWVTA, once the design is approved, individual vehicles do not need to be tested

4. IVA (Individual Vehicle Approval) is a UK national scheme and the most likely route for those manufacturing or importing single vehicles or very small numbers. IVA does not require CoP, although most bodybuilders and converters will work with manufacturers to ensure there is no warranty compromise.

Under IVA, vehicles have to be inspected by the Driver and Vehicle Standards Agency (DVSA) in Great Britain or the Driver Vehicle Agency (DVA) in Northern Ireland.

Following are suggestions for future vehicle licence policy

Fuel Types

Example of Electric WAV;

<http://www.brotherwood.com/wheelchair-accessible-vehicles/electric-wheelchair-accessible-vehicle-nissan-env-200/>

Following are excerpts from Houses Of Parliament – Parliamentary Office Of Science & Technology

Overview

- Electric vehicles (EVs) are more energy efficient during use than petrol or diesel vehicles, and produce less air pollution.
- The carbon emissions of an EV depend on how the electricity it uses is generated.
- Given the UK's current electricity mix, the carbon emissions due to driving an EV are comparable with the most efficient diesel cars, and are around 30% less than the average for new fossil fuel cars.
- Currently, the main barriers to uptake are cost (notably, battery cost), limited range between recharges, long recharge times and a lack of recharging infrastructure.
- A combination of industry regulation, pilot projects and consumer incentives is being used to encourage uptake in the UK.

Consumer Incentives

Plans for a consumer subsidy for EVs from January 2011 were announced by the previous government. EVs which meet performance, reliability and safety criteria will be eligible for a 25% purchase price subsidy, up to a maximum of £5,000. In July 2010, £43m funding for the scheme was confirmed, with a review of the subsidy amount per car planned for March 2012. Tax measures designed to encourage the sale of lower emitting vehicles include Graduated Vehicle Excise Duty and Company Car Tax.

Requirements for EV Uptake

Vehicle Range

Limited range (see Box 1) is seen as a barrier to consumer uptake of EVs. A major technological challenge for manufacturers is to increase range while keeping battery size and cost down. Range can also be increased using plug-in hybrid EVs (Box 1). PHEVs can complete journeys of up to 40 miles (60 km) in electric mode, but fossil fuels are used for longer journeys or when recharging facilities are unavailable. Journeys of less than 25 miles (40 km) account for 93% of car trips and 60% of car emissions in the UK.

2020 and Beyond

Future EV numbers are difficult to predict and forecasts vary from 1-10% of cars in the UK by 2020. Different technologies may begin to compete for different market sectors. Countries with early EV markets may attract more industry investment (see Box 3). The UK has not set targets for vehicle numbers. However the Committee on Climate Change recently recommended aiming for 1.7 million EVs by 2020, as a step towards the UK's long term emissions reduction targets. ³ Given the length of time new vehicle technologies can take to become established, many stakeholders feel this level of uptake by 2020 is unlikely.

TFL Policy

Under Transport for London (TfL) rules, all **new** black cabs from 1 January 2018 will need to be electric, or capable of producing zero emissions. Combined with an age limit for the cabs of 15 years, that means the last diesel ones should disappear from London by 2032.

Although the upgrade to a new set of wheels, the new all electric black cab, will set back London cabbies about £55,000.

Alternative and additional Proposals / Suggestions to the current Policy

The WBC vehicle license policy should take in to consideration the affluent upmarket character and nature of the town and to portray that, as reasonably possible, in the HC & PH vehicle licensing policy so as to reflect the desired image and for the end user to have a befitting experience.

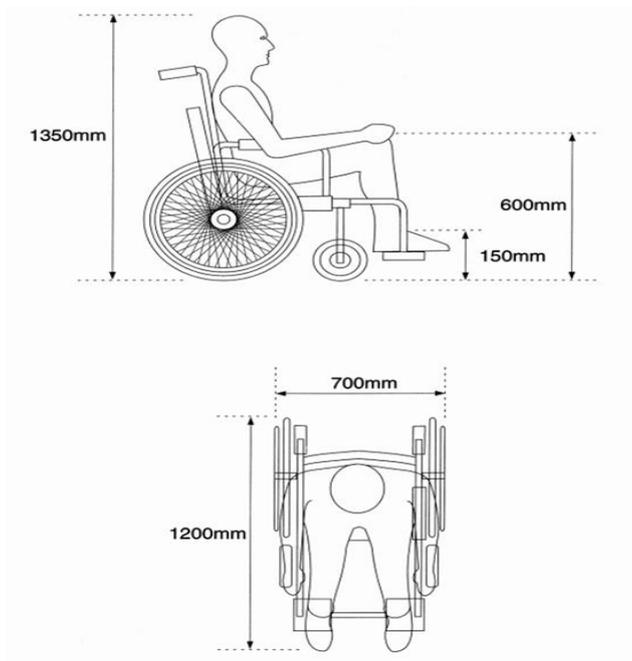
The WBHCA members and non-members alike urge the WBC to take this opportunity to overhaul, rectify, renew and clarify the existing confusing and openly interpretable vehicle licensing policy, to an exemplary standard.

That the currently HC licensed vehicles be phased out by the 15 year life of license condition presently applicable to them, mechanically dependant. The following **new** conditions of license be introduced in addition to the present policy, date to be agreed, that;

- Any new to be licensed converted wheelchair accessible vehicle/s (WAVs) must possess an EC Whole Vehicle Type Approval (ECWVTA) certification.
- A vehicle can only be licensed for the **first time** as a hackney carriage that is either hybrid, fully electric, or capable of producing zero emissions” **as per the above TFL policy**. To encourage uptake and appeal ability some form of concessions might be necessary for the initial period of enforcement.
- A vehicle must meet the following specification so as to accommodate a “reference wheelchair” as per the DfT recommendations and have a minimum internal wheelchair space of - height: 1370mm width: 783mm and length: 1320mm.
- All licensed HC vehicles be transferable to a DD badge holder or operator.
- Allow HC Vehicles operating on Henley Regatta week to charge same or similar tariff to South Oxfordshire HC Vehicles.
- Smaller engine sizes should be incorporated as the new modern engines are far more potent than their older predecessors, as highlighted in the following article from the Economist;

<https://www.economist.com/science-and-technology/2015/12/10/the-incredible-shrinking-machine>

DfT Guideline Reference Wheelchair dimensions.



The preceding suggestions, we hope, are foreseeable future proof, will eliminate the presently laborious; costly, and confusing and often difficult to implement policy conditions that are readily open to wide and varied interpretations.

Examples of Local Authority Taxi and Private Hire Licensing Policy and Highlights

Brentwood Borough Council - Wheelchair Accessible Vehicles

Passengers with wheelchairs

All licensed taxis in Brentwood must be able to carry a wheelchair folded and stored in the boot.

Some of these are also able to carry an occupied wheelchair within the vehicle.

The list of designated vehicles below are all capable of carrying some, but not necessarily all, types of occupied wheelchairs.

This list has been designated for the purpose of section 165 of the Equalities Act 2010.

The list was last updated on 16th May 2018.

HACKNEY CARRIAGE HCV059 FORD TOURNEO 848 CARS

HACKNEY CARRIAGE HCV191 PEUGEOT EUROBUS 848 CARS

HACKNEY CARRIAGE HCV083 MERCEDES VITO MR BUCKLEY

HACKNEY CARRIAGE HCV226 FORD TRANSIT MR EARL

HACKNEY CARRIAGE HCV094 PEUGEOT EXPERT E7 MR FROST

HACKNEY CARRIAGE HCV243 RENAULT TRAFIC MR HODGSON

HACKNEY CARRIAGE HCV074 VOLKSWAGEN TRANSPORTER MR PERRY

PRIVATE HIRE PHV113 MERCEDES V CLASS MR BROWNE

All our licensed vehicles can be checked using our [Licensing Public Access](#) system.

Any complaints of refusal to carry a wheelchair chair should be emailed to licensing@brentwood.gov.uk

Following url's are a recent drafting of a local authority's Hackney Carriage and Private Hire Licensing Policies 2018

https://www.scambs.gov.uk/sites/default/files/south_cambridgeshire_district_council_taxi_policy.pdf

<https://www.swale.gov.uk/assets/Licensing/Policies/Hackney-Carriage-and-Private-Hire-Licensing-Policy-2018-2023.pdf>

Driver dress / appearance code perhaps should be considered.

The opinions of its users, or potential users, especially the numerous elderly residents who have expressed the need for the saloon type vehicles be available at the town ranks for ease of access to get in and out of them.

The WBHCA wishes to resolve all matters amicably by cooperating fully with WBC so as to bring about a smooth and trouble free coexistence that will benefit all concerned, our vision is for the WBC to understand the effects the proposed changes will bring about to the economic wellbeing of our members and to lessen the negative impact as much as possible yet attain the changes that are inevitable to take the HC trade in Wokingham to the desired level.

Yours Sincerely

REDACTED - FABO WBHCA

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Our ref. 81525

Thank you for the opportunity to comment on the consultation. My comments on the proposals are below and specifically relates to Section 2.5 Age of Vehicles:

Environmental Quality Team welcomes the proposal to amend the Criteria Policy for Licensed Vehicles to reflect the changes in vehicle technology and alternative fuels and improve the air quality in Wokingham Borough.

There are 3 Air Quality Management Areas in the Borough (M4, Twyford Crossroads and Wokingham Town Centre), all declared due the exceedance of road transport emissions (nitrogen dioxide).

The limits to improve air quality and health have been in existence since the early 1990s, whereby new car models have had to meet increasingly stringent exhaust pollution limits, known as the Euro emissions standards, before they can be put on sale.

The first European exhaust emissions standard for passenger cars was introduced in 1970, however it wasn't until 1992 when the 'Euro 1' standard heralded the fitting of catalytic converters to petrol cars to reduce carbon monoxide emissions. [The latest standard, 'Euro 6'](#), applies to new type approvals from September 2014 and all new cars from September 2015 and reduces some pollutants by 96% compared to the 1992 limits.

The dates below are the implementation date for new vehicle type approvals. The dates in brackets are the implementation date for all new vehicle registrations, normally one year later, so a car registered between the two dates may meet the corresponding emissions standard and a car registered after the date in brackets will meet it.

Euro 4 - January 2005 (January 2006)

Euro 4 (January 2005) and the later Euro 5 (September 2009) concentrated on cleaning up emissions from diesel cars, especially reducing particulate matter (PM) and oxides of nitrogen (NOx). Some Euro 4 diesel cars were fitted with particulate filters.

Euro 5 - September 2009 (January 2011)

Euro 5 further tightened the limits on particulate emissions from diesel engines and all diesel cars needed particulate filters to meet the new requirements. There was some tightening of NOx limits too (28% reduction compared to Euro 4) as well as, for the first time, a particulates limit for petrol engines – applicable to direct injection engines only. Addressing the effects of very fine particle emissions, Euro 5 introduced a limit on particle numbers for diesel engines in addition to the particle

weight limit. This applied to new type approvals from September 2011 and to all new diesel cars from January 2013.

Euro 6 - September 2014 (September 2015)

The Euro 6 standard imposes a further, significant reduction in NO_x emissions from diesel engines (a 67% reduction compared to Euro 5) and establishes similar standards for petrol and diesel. Exhaust Gas Recirculation (EGR) – replacing some of the intake air (containing 80% nitrogen) with recycled exhaust gas – reduces the amount of nitrogen available to be oxidised to NO_x during combustion but further exhaust after treatment may be required in addition to the Diesel Particulate Filters required to meet Euro 5.

Euro 6d-Temp, Euro 6d and Real Driving Emissions (RDE)

From 1 September 2017, more stringent and realistic tests will be used to certify new car models against the Euro 6 emission limits.

Therefore the proposal in section 2.5 Age of Vehicles means that currently (in 2018) a vehicle licensed would be 10 years old or less therefore falling into the category of Euro 4, compared to if a vehicle was 15 years old it would be a Euro 3. Obviously the newer the car the “cleaner” the emissions. Should Members wish to ensure fewer emissions then the policy would need to reflect this in a proposal for Euro 5 compliance by the age being 7 years or less.

Regards

Suzanne

Suzanne McLaughlin MCIEH CEnvH
Senior Environmental Health Officer (Environmental Quality Team)
Public Protection Partnership

A shared service provided by Bracknell Forest Council, West Berkshire Council and Wokingham Borough Council

TITLE	Review of Statement of Licensing Policy
FOR CONSIDERATION BY	Licensing and Appeals Committee 27 June 2018
WARD	Non-specific
DIRECTOR	Sean Murphy - Public Protection Manager

OUTCOME / BENEFITS TO THE COMMUNITY

Wokingham Borough Council is required to prepare and publish a Statement of Licensing Policy ('SLP') every five years in accordance with section 5 of the Licensing Act 2003 ('the Act'). The SLP outlines the general approach of the licensing authority when making licensing decisions under the Act and can be reviewed and revised by the authority at any time. The Wokingham Borough Council SLP must undergo a review and be re-published by the end of September 2018.

RECOMMENDATION

That the Committee notes the results of the consultation and determines whether officers should proceed with the drafting for a Cumulative Impact Assessment for the Remenham area.

SUMMARY OF REPORT

The purpose of this report is to update the Committee on the results of the consultation, exercise carried out. The responses received are attached as annexes to the report. The report further details the proposed actions to address the comments, for discussion and consideration.

A decision is now required as to whether officers should proceed with the drafting of a cumulative impact assessment for the parish of Remenham, on the basis of the evidence received during the consultation period.

Background

Before determining the SLP for any five year period, the licensing authority must consult the persons listed in section 5(3) of the Act. These are:

- The chief officer of police for the area
- The fire and rescue authority for the area
- Persons or bodies representative of holders of local personal licences, premises licences and club premises certificates
- Persons or bodies representative of businesses and residents in its area

Seven responses were received in total. The views of all consultees should be given appropriate weight when the SLP is determined. The intention is to consider a final version of the SLP at the next meeting in September prior to Council approval later in the same month.

Two of the responses received highlight the following matters within the proposed SLP (with officer observations in the second column to explain actions taken as appropriate):

Annex	Comment	Officer response
A	Develop the SLP to make it more comprehensive, in particular to consider the specific impacts caused by large scale events and to bear in mind the specific locality	Officers will bear this in mind, and will also look to develop a guidance document for applicants for applicants to take into account when creating operating schedules, in addition to the SLP and the statutory guidance issued under s182 of the Licensing Act 2003
A	Making SAG a compulsory process and for the SAG to recommend coordinated conditions	Officers would not support this, as the whole premise is that the SAG is an advisory body, however the policy can be amended to highlight the benefit of using SAG for events. It is possible to use licence conditions for certain event documents to be submitted to the Council and all responsible authorities and this will continue to be encouraged to happen via the SAG wherever possible. SAGs do not have the resource or sufficiently frequent meetings to consider applications, but most parties on the SAG are responsible authorities in their own right. It is the role of a licensing officer to ensure coordination amongst responsible authorities on wording of conditions as far as practicable.
A	Consider the use of a mission statement	Officers will look to include this within the draft Policy
A	Decision on whether a representation is irrelevant, frivolous, vexatious etc to be referred to full Committee in all cases	This is not practical within the required timescales. Officers have guidance on how to make this determination and can seek legal advice if unsure. The proposed delegations are taken directly from the s182 Guidance. In addition, any person dissatisfied with a decision of this nature would have a right to ask the Public Protection Manager to review the matter.
A	All licensing decisions to be reported to the full Committee and any ward member entitled to refer any decision to the Committee	Any ward member can make a representation on any application provided they have a legal right to do so (for example they could not object to the transfer of a licence as only the Police or Home Office may object). Officers will look into the best way of communicating licence decisions to Members and will feedback further on this matter.

B	Expand section 5.4 reference GDPR and CCTV	Noted, officers will carry out further research into this area and revise accordingly.
B	Check wording in respect of Enforcement Protocol and Enforcement Policy and include a link where available	Officers will revise wording accordingly and include links if available
B	Suggestions about wording in respect of protection of children from harm and inclusion of examples such as Challenge 25	Officers will revise wording accordingly

In addition, this is a brief summary of the responses with specific reference to cumulative impact in Remenham:

Annex A – Fully in support – for new and variation premises licences, to control proliferation and as an additional power for the Council

Annex B – Does not feel there is sufficient evidence to support this, believes that the impact must be due to a significant number of licensed premises concentrated in one area and operating at the same time

Annex C – Does not feel there is sufficient evidence to support this.

Annex D – Fully in support on grounds of nuisance – noise and traffic and safety (relating to vehicle and emergency access)

Annex F – Fully in support on same grounds as Annex D

Annex G – Fully in support on same grounds as Annex D

It is also noted that responses B and C point out that the Government, when introducing the recent changes to put Cumulative Impact on a statutory footing as part of the Policing and Crime Act 2017 emphasised the importance of decisions being made on the basis of robust evidence which can stand up to scrutiny.

Response C also did not feel the process of consultation was appropriate for a number of reasons as detailed within the response. Officers can confirm the consultation was placed on the Wokingham Council website and that details were sent to all existing licence holders. The consultation sought to request any evidence which would support the introduction of a SLP. Should Members decide to proceed with any significant variations to the SLP, such as the introduction of cumulative impact, additional time will be available for further consultation between this meeting and September if required.

Analysis of Issues

The SLP must, by law, be revised and re-published to take effect from the end of September 2018.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	No impact	N/A	N/A
Next Financial Year (Year 2)	No impact	N/A	N/A
Following Financial Year (Year 3)	No impact	N/A	N/A

Other financial information relevant to the Recommendation/Decision
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None

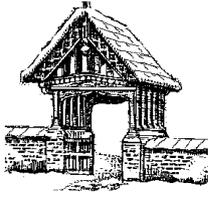
Cross-Council Implications

There are no implications arising from the recommendation in this report.

List of Background Papers

Statement of Licensing Policy (Sept 2013) Section 182 Guidance (April 2017)
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Contact Laura Driscoll	Service Public Protection Partnership
Telephone No 01344 352517	Email laura.driscoll@westberks.gov.uk
Date 12 June 2018	Version No. 1.2



**REMENHAM PARISH
COUNCIL**



Laura Driscoll
Licensing Authority
Wokingham Borough Council
Civic Offices
Shute End
Wokingham
RG40 1BN

6th June 2018

Dear Laura,

Consultation on the statement of Licensing Policy

1. We have been asked to review and provide advice on the Statement of Licensing Policy for Wokingham Borough Council (WBC) for the purposes of contributing to the consultation by that WBC prior to its statutory review of its policy.
2. There are particular issues experienced by Remenham Parish in its unique location as the venue for a wide variety of outdoor events, focussed upon river activities, and largely as a result of their proximity with the better-known Henley-on-Thames. These activities have predominantly grown up over the last thirty years, and the Licensing Authority have struggled to update their licensing policy to take into account the impacts of these proliferating events in some parts of the Borough.
3. The current Statement of Licensing Policy is very thin, and less comprehensive than one would expect to see especially when parts of the Borough have urgent, bespoke and specific issues with proliferating events. This is a good opportunity for WBC to review their policy and improve it considerably in a general sense, and to deal with some of the specific problems that Remenham Parish Council have been highlighting. We note that the Council is open to introducing a Cumulative Impact Policy, and it seems to us that this would be an entirely suitable measure for Remenham. We deal with this in more detail below.

4. Residents would like to see a number of other interventions to control the clear impacts to which current licensed events are contributing. These include:

- Restrictions on the grant of new licences, and/or the times at which new licences are permitted, so that events are not more numerous;
- Placing existing events and licences under continuous review and the introduction of new policies and conditions to licences retrospectively;
- Compulsory Safety Advisory Group (SAG) meetings between licensees, parish council, ward councillors and responsible authorities at least annually but more frequent for larger events;
- Attention paid to the control of set up and break down of events, which may not be included within the terms of the premises licence, with a particular emphasis on traffic control;
- Noise monitoring with transparent disclosure of readings and measurements;
- Traffic management coordinated by the licensing authority but paid for by licensees and event holders;
- Event policing paid for by licensees and event holders;
- Event public toilets provided by licensees and event holders;
- Litter collection arranged by licensees and event holders;
- “Collateral damage and costs” paid for by licensees and event holders;
- Events to be held only on the condition that they are of no detriment to residents and only of benefit;
- Limitation on planning authorisations including prohibition of certificates of lawfulness.

Some of these aspirations are possible, and some are not. We will set out suggestions of what the Statement of Licensing Policy could achieve in itself, and what other alternative measures could achieve as well.

5. Limitations imposed upon new grants and variations of licences is certainly an achievable aspiration. This could include restrictions on when events may be held; appropriate phasing or spacing of events, and controls over set up and break-down. Licences can be granted for time limited periods, and it is a matter for the licensing authority to decide when the event can begin, and when it ends. This can be done on the basis of a time limited permanent premises licence (which would not need renewing), or on the basis of grants of temporary licences, which lapse once the event has concluded. The benefits of either approach would need to be considered on a case by case basis. The set up and break down element of the event can be included in the terms of the licence. There is no need to restrict the terms of the licence to the actual licensable activities themselves. It is perfectly common

to include terms and conditions in licences relating to things like deliveries, waste collection and litter picking, which need not necessarily take place at the same time as licensable activities are ongoing. There is case law that confirms that control by licence conditions is not restricted to areas within the licence red line, so for example, a condition could introduce a traffic policy that requires steps to be taken on an area outside the boundaries of the licensed event area. There is also case law that confirms that controls introduced by licence conditions are not restricted to licensable activities themselves. It is perfectly proper for example to introduce controls over drugs searches, smoking areas or talking in a beer garden, none of which are licensable activities.

6. Statements of Licensing Policy should be visionary and aspirational documents, meaning that they should set out a vision and a statement of intent as to the type of licensed economy the licensing authority wishes to see for its area, and the way in which that economy should relate to local businesses and residents. This should be in the nature of a mission statement, setting out the expectation that the licensing authority has for a harmonious relationship. This may be aspirational but it is a good place to start.

7. Many statements of licensing policy set out in much more detail than the WBC policy the mechanics of the licensing system and the procedure that will be followed. This is not strictly necessary, but it can ensure that applicants follow best practice. At least, if the licensing authority does not wish to set these matters out in their own policy, they could sign-post applicants as to where they should look for further relevant information on making applications.

8. There should be a description of the nature of the area that the licensing authority covers. This should appear in the statement of licensing policy generally, but the policy should require applicant to address this particularly in every application. This is dealt with in some detail in the Secretary of State's S182 Guidance (updated April 2018):

“Steps to promote the licensing objectives

8.41 In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Licensing authorities and responsible authorities are expected to publish information about what is meant by the promotion of the licensing objectives and to ensure that applicants can readily access advice about these matters. However, applicants are also

expected to undertake their own enquiries about the area in which the premises are situated to inform the content of the application.

8.42 Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:

- hotspots, proximity to residential premises and proximity to areas where children may congregate;
- any risk posed to the local area by the applicants' proposed licensable activities; and
- any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.

8.43 Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact policy), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy.

8.44 It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. For example, premises with close proximity to residential premises should consider what effect this will have on their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives, and where there are no known concerns, acknowledge this in their application.

8.45 The majority of information which applicants will require should be available in the licensing policy statement in the area. Other publicly available sources which may be of use to applicants include:

- the Crime Mapping website;
- Neighbourhood Statistics websites;
- websites or publications by local responsible authorities;
- websites or publications by local voluntary schemes and initiatives; and
- on-line mapping tools.

8.46 While applicants are not required to seek the views of responsible authorities before formally submitting their application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application. Licensing authorities may wish to encourage co-operation between applicants, responsible authorities and, where relevant, local residents and businesses before applications are submitted in order to minimise the scope for disputes to arise.

8.47 Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises.

8.48 All parties are expected to work together in partnership to ensure that the licensing objectives are promoted collectively. Where there are no disputes, the steps that applicants propose to take to promote the licensing objectives, as set out in the operating schedule, will very often translate directly into conditions that will be attached to premises licences with the minimum of fuss.”

9. We do not think that these are matters that the current Wokingham Policy addresses or achieves, and this needs improvement in the next iteration. It is always important for an applicant to recognise the nature of the locality into which they are applying to operate, and to reflect the particular risks and needs of that locality in their operating schedule. The applicant should provide this information and the licensing authority should look for it in an application. This exercise forces applicants to focus upon obvious impacts that already exist from current licences, and the additional effects that their licence may have, rather than being permitted to ignore it.

10. The Council’s statement of licensing policy should set out clearly what their expectations are in relation to events through the summer months. It is for the Council licensing department to monitor how many licences they have granted, and when the licences operate, and to coordinate those with any new applications that come in, for new grants or variation, but a statement of licensing policy could make it plain that the Council expects applicants to do this too, and for the policy to set out the required spacing between events, so that applicants have to try to identify a suitable “slot” for their application rather than simply applying for what they like and having their application considered on its own terms. As with all policies, provision must be made for making exceptions to the requirement, but there is nothing wrong with setting out the baseline expectation.

11. Examples of what the statement of licensing policy should require of an application and an operating schedule include:

- a clear description of the licensed proposal - exactly what it entails, how it will operate and its style
- a clear description of the nature of the locality in which the proposed event is to be situated and the sensitivities and the nature of the particular site itself and its constraints and opportunities
- any specific policies that are identified as being applicable from the s182 Guidance or the statement of licensing policy and how the applicant proposes to address them
- the dates of commencement and termination of the event, including set up and break down and the justification for these and any particular impacts to which they might give rise when considered cumulatively with other events in the area, including traffic impacts
- the times of the event operation and a justification for them – including dispersal policies and last drinking up hours and the wind down / cool down period
- details of accessibility or other special measures for disabled people
- coordination with any local groups, such as Ward Councillors, Parish Council, Residents' Associations, Wildlife groups, Pub watch, Radio Link, any other schemes that apply. If there are no such groups, the licensing authority may wish to consider establishing them. It is less advisable to make membership of such a group a condition on the licence, but a licensee should certainly be required to acknowledge local groups for themselves.

12. These issues might be regarded as the general “landscape” for a licence application in this area. It is then standard for statements of licensing policy to set out clearly the range of specific issues that they expect to see addressed in an individual licence application. An example of how this is often approached would be along the lines of:

“The Licensing Authority will require applicants to detail in their operating schedule the steps/measures proposed to ensure the prevention of / deterrence of ...”

and then to set out those matters. This can be done on a section by section basis, to describe the nature of the impact of concern in more detail, or as a list. Different statements of policy take different approaches, and there is no single correct way of doing it, as long as it is clear.

13. This is of particular importance for a licensing authority such as Wokingham, where the impacts of premises licences are very particular, and bespoke to the nature of the area. It ought to be particularly easy to identify the types of impacts to which those licences give rise.

14. Typical lists will include the deterrence and prevention of:

- Excessive alcohol consumption.
- Crime and disorderly behaviour.

Local Authorities should have local crime prevention strategies, and will usually receive input from the local Crime and Disorder Reduction Partnership. It is appropriate for the statement of licensing policy to make reference to these structures, and seek the compliance of premises licence conditions with those protocols, where suitable.

- Use of glassware and consideration of the use of safer alternatives. Prevention of people wandering around with glassware, bottles or open containers and keeping these controlled within the licensed area, from litter, public safety (broken glass) and prevention of crime (use as a weapon) point of view.
- Noise break out – from people and music, including noisy dispersal at the end of an evening, or event.
- Addressing public nuisance, including the provision of phone numbers / contact details for the event organiser for local residents to contact in the event of a problem.
- Control of traffic impacts.
- Control and collection of litter.
- Public safety with particular reference to physical safety.

Physical safety does not relate to health per se, but there are numerous potential impacts on public safety from the types of licenses that those instructing are describing. Typical examples would be taking all steps to prevent people from falling into water after consuming alcohol. Those instructing mentioned in one of the documents that I have seen that local traffic impacts could have a detrimental effect on health and safety. The public safety objective in the Licensing Act 2003 relates to matters that arise directly from the licensable activities or from the licensed premises themselves. Impacts resulting from traffic bringing people to those events would be regarded as too remote to be judged as a breach of a licensing objective. Typically, licensees must be able to have direct control over an impact in order for a licensing authority to be able to control it by way of a condition or a step on a licence, and licensees have no control over the way vehicles are driven on the public highway.

- Protection of children.

Applicants should be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and the licensable activities for which a licence is being sought. This should have a particular emphasis on the prevention of underage drinking.

- Prevention of drug use, and policies for the safe retention of drugs seized and passing information to the police.
- Access for emergency services.
- Training.

One of the important controls over the operation of a premises licence is the competence of the staff who are managing it. This can be improved by quality training of those staff, in relation to the types of impacts to which their operation could give rise, and the measures that they ought to take to avoid them. It is important, therefore, to ensure that licences always contain a condition addressing the training that staff will receive. It is usually appropriate for a licensee to offer a set of policies, addressing all the different types of impacts that might be expected from the operation of the licence. Often, there will be too many different points to wish to make a condition out of each of them, and it is usually appropriate for a licensee to offer a condition that the various policies will be adhered to, unless any policy requires amendment, by agreement with the Licensing Authority. This provides control, but also a level of flexibility, if circumstances change and policy needs updating.

- Control on numbers of patrons generally, and perhaps limiting numbers of patrons in particular areas.
- Location of smoking areas and limits on numbers using the area or hours of usage.
- Restrictions on outdoor music, or the introduction of noise limiters, or acoustic baffles or other noise restriction measures. There is much that can be done to reduce noise impacts, although the more sophisticated the noise attenuation, usually the more expensive it is, but that is an issue for the licensee. The more noise impact to which the licensee wishes to give rise, and the more profit they are likely to make from their activities, the more investment they should make in reducing the impact on their neighbours. The licensing authority should be cognisant of this. With the right technology in place, it is possible to cancel out the loudest music within metres of its output, but these can be expensive processes. The licensing authority ought to be aware of the technical possibilities, however, and should rely on their professional Environmental Health officers to keep them informed as to what all the options are. It is not usually appropriate to impose conditions directly requiring high expenditure by

the licensee, but it can be appropriate to require specific mitigation of noise output, even to the extent of imposing noise levels, to be achieved by any method that the licensee wishes to introduce, as long as it achieves the right result.

- Routes for patrons' arrival and dispersal, whether by road vehicle, including public transport, or on foot. The licensee can usefully provide information to proposed patrons as to how to travel to and from the event effectively, and where to park, where to pick up public transport and so on, and this can dovetail with SAG protocols for traffic management and other issues. The Council and the responsible authorities need to provide the leadership and the coordination, particularly with an overview of traffic management, and any knock-on effects for public transport, including taxi provision and protocols with local companies, to avoid disturbance. The licensee needs to provide the information to the responsible authorities in their applications, relating to their particular event, and then disseminate information to their visitors. They too can enter into protocols with taxi providers. Parking provision may be on the event site itself, and will then be the responsibility of the licensee. These people movements will include the movement of staff and organisers beyond the hours of the event itself, which should also be taken into account.
- Queue control, and entry policies. This may include search policies, to prevent offensive weapons, drugs, alcohol and other items being brought into the event.
- Waste disposal, and storage, waste collection hours, bottling out and any noise arising from these activities.
- Deliveries of supplies, and any traffic impacts or noise impacts arising.
- Lighting, particularly external lighting and light pollution.
- Fumes and odours from cooking and other sources.
- Advertising and promotions, including additional litter from flyers and similar.
- Obstruction from facilities on public rights of way. The licensing authority and the applicant should bear in mind that the provision of facilities (including tables, chairs, barriers etc.) on the public highway will require a separate permission in accordance with the Highways Act 1980.
- Entry policies and last entry policies, and deployment of security staff or patrolling staff. These are all matters that can be dealt with in a policy.
- Deployment of security staff, or patrolling staff to maintain an appropriate level of control at premises and at events.

15. All of these factors should be addressed, as appropriate in applications and, as appropriate, built into the premises licences themselves, so that there is an element of accountability and enforceability placed upon the premises licensees, and that they are in breach of conditions if these issues go wrong. It is a good idea for the statement of licensing policy to set out examples of the steps it would expect to see in an application to deal with these impacts

16. This statement of licensing policy should draw much more prominently to attention the issues and impacts facing residents as a result of the grant of premises licences. The licensing authority is in the best position to know what these impacts are. Undoubtedly, those instructing have drawn these impacts clearly to attention on numerous occasions, but in making this consultation response, it would be a good idea to draw up a clear list, once again, of all the impacts that the residents experience as a result of the operation of premises licences at events, and in the area generally. These impacts and concerns should be clearly reflected in the statement of licensing policy to draw to the attention of applicants the types of problems that they should be expressly seeking to avoid in their operating schedules. It may all appear rather obvious, but to have it spelt out in the licensing policy not only ensures that no issue is inadvertently missed, but it calls applicants to account, as the licensing officer and licensing committee can use it as a check list against applications, to ensure that there is a proposal on the operating schedule in place to deal with each different type of impact. Application which are submitted in conflict with policy should be scrutinised with great care, and rejected if they are consequently unacceptable.

17. The licensing policy can also go so far as to suggest the types of steps that the licensing authority would expect to see on the licence to deal with particular types of impacts. Some statements of licensing policy include model conditions, (which is less advisable, as the wording is unlikely to be universally appropriate, and may lead to a lack of flexibility on the part of the applicant and the committee). What is preferable is to include options for steps to deal with certain circumstances, such as dispersal policies, security staff, body worn cameras to deal with disorder; litter picking and sufficient waste disposal provision for litter; restriction on hours, particularly for drinking in outdoor areas, and an overall cap on licensable hours, and so on. These may provide ideas and options for applicants who might not otherwise have thought of them.

18. There is also a wealth of guidance available on the safe running of events, particularly larger outdoor events, and it would be a good idea for the statement of licensing policy to reference this guidance and to provide information about where applicants can find it. Some examples are the Event Safety Guide—a guide to health, safety and welfare at music and similar events (HSE 1999) (The Purple Book) ISBN 0 7176 2453 9; Managing Crowds Safely (HSE 2000) ISBN 07176 1834 7; Steps to Risk

Assessment: Case Studies (HSE 1998) ISBN 07176 15804; (all by the Health and Safety Executive); Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network, copies of which may be obtained via www.streetartnetwork.org/pages/publications, and more.

19. The statement of licensing policy should identify, support the establishment of and require the involvement of Safety Advisory Groups (SAGs). SAGs are a standard way of monitoring large event and particularly outdoor events, and they will typically be comprised of parish councillors, ward members, officers from the responsible authorities (Police; Environmental Protection; Fire Authority; Transport and Highways officers, and more), licensees and event holders. The advantage of having a well-established SAG with consistent professional membership is that it can monitor the operation and the future proposals for all the licences and can pick up deficiencies in any operating schedule when compared to other operating schedules, and can highlight and disseminate best practice, that could be built into the various policies that each licensed operator should have adopted. SAGs can liaise with existing licensees – perhaps by way of the imposition of a condition on their licence that they will attend SAG meetings as and when required. SAGs ought also to scrutinise, cumulatively any new licence applications (if the timetables for their meetings allow), and can recommend coordinated conditions with which all the relevant responsible authorities agree.

20. Another common intervention seen for licences which hold ad hoc events is to impose a condition on the licence, requiring the submission of a Risk Assessment, (usually to the Police, the licensing authority as a responsible authority, the parish council and ward members), for the particular event in advance of it happening. This can provide a slightly lighter touch, but still a bespoke control on an event by event basis, even if a permanent premises licence has been granted. This can be an alternative to granting a temporary or time limited licence. The condition could require that the licensee submits a “once for all” event management plan which shall be approved by the licensing authority / Police (or whomever else), and only amended thereafter with written approval, or it could require that the licensee shall submit a risk assessment on a case by case basis for each event that is held. Such assessments can include precisely where different licensable activities take place on site; a limit on people in individual areas if necessary; all the requirements for monitoring, by security staff or other staff, for noise or disorder; facilities for parking or traffic movement, and all other relevant factors. If any element of this more extensive event management plan is not adhered to, that would be a breach of the generic condition, and an offence under s136 of the Licensing Act 2003.

21. Some particular issues appear to be individual to the licences granted in Remenham include factors such as setting up and breaking down the event, days before it starts and after it concludes,

which include the individual small licensees offering their own licensed services. This extends the impact of the event beyond its period for licensable activities, but this does not mean that conditions cannot be imposed on licences to control these factors. Licences do not only control licensable activities alone, and they do not only control the hours at which licensable activities take place. For example, smoking cigarettes, and disposing of waste bottles are not licensable activities, and they may not take place at the same time as licensable activities, but no one would suggest that they are not the proper subjects for control on a licence. It seems to us that this a very fruitful area for additional guidance in the statement licensing policy as to how licensees should approach set up and break down, and over what period. It seems to me that this period could be curtailed in many cases, to reduce the impact on residents. Those instructing have particularly mentioned that there is, in many cases, no traffic control during set up and break down periods, as opposed the relatively well managed traffic during the event itself. There is no reason why this could not be extended, and this expectation for operating schedules could be set out clearly in the statement of licensing policy.

22. It must be borne in mind that licensing steps, imposed by a licensing authority through the medium of a licence must relate strictly to licensable activities and the four licensing objectives. This means that controls can only be imposed upon matters which are within the direct control of the licensee and that can be said to be arising as a direct result of licensable activities. This is not necessarily a black and white issue, and there can be grey areas as to whether an impact is within the control of the licensee or happening as a result of his/her activities or not. But generally speaking, the more remote the impact, in time or distance, from the licensed premises and the licensable activity, the less likely it is that the licensee can be held responsible through the medium of a premises licence. There are proposals to make licensees pay for highway changes or traffic impacts. The licensees are not responsible for all of the highway impacts in Remenham, and all the “commuter rat-running”, even during event season, and it would not be appropriate to try to make them pay for these more remote impacts. Nor is it possible to try to “pool” contributions from licensees, so that each of them pays something towards a global traffic problem. The licensing regime can only deal with specific impacts arising from a specific event. This is something that is better achieved through the planning process, through examination of whether agricultural land whose principle use is for the purposes of holding events should not be subject to business rates and contributions to the general impacts to which they are giving rise, but licensing operates in a different way. It is not usual, and rarely appropriate to impose a condition upon a licence which requires a payment or contribution of money towards any cause, or to implement infrastructure on site or elsewhere, and this is not least because of any disputes about proper calculation of the sum, but also because conditions are intended to be the ongoing daily controls over a premises licence, in force in perpetuity, and more rarely for a one-off

action. Conditions are better phrased by identifying impacts (directly arising from the licence); requiring them to be abated by the applicant and then leaving the means of achieving it to the licensee.

23. In a similar way, it is not appropriate to require licensees to contribute towards general costs to the public purse such as policing. The licensee could only be required to pay for policing that arose as a direct result of their operations, and that would be almost impossible to calculate. It would also turn the Police into a form of security for those premises individually, which compromises their independence, and it is not appropriate.

24. Public toilets could be required on the licence to cater for the specific event authorised by the licence and for their visitors, but not as a public convenience generally, for the same reasons, and the same is true for things such as litter collection. Often, a licensee will collect more litter than their event has given rise to, as a gesture of good will, but they cannot be made to do so, nor to contribute to litter collection generally.

25. Current licences could also be altered to add extra controls over the issues identified above, even though they have already been granted; this is possible in a number of ways. If particular impacts have been identified that current licences do not address, but could, the licensing authority could invite current licensees to submit a minor variation, to voluntarily amend their own licence to add the extra suitable controls that are (hopefully) set out in the new statement of licensing policy. The “stick” to encourage licensees to go to that trouble would be that the licensing authority, or some other responsible authority - or indeed, the residents themselves – would be likely to bring a licence review to add the changes on to the licence against the licensee’s will, which would be more heavy handed.

26. It would be ideal to see various amendments to the new statement of licensing policy, introducing a range of additional potential controls over licences, and then for the licensing authority to invite existing licensees to address their licences for themselves to bring them in line with the new guidance and policies. There is nothing, however, to stop the licensing authority or any responsible authority or any other person from seeking a review to add new conditions on, if they are thought “appropriate” (that is the test), even though the licensee has not done anything “wrong” as such, nor breached any of their conditions to date. Licensing reviews are not punishments for wrongdoing, they are the mechanism for ensuring that premises licences are always effective to promote the licensing objectives. If the statement of licensing policy and other guidance have improved and added new controls since the licence was granted, then it is entirely appropriate to invite the licensee to improve

their own licence voluntarily, or have the improvements imposed upon them by review if not. This is something that the residents can initiate for themselves in suitable cases, and I would be happy to discuss this further.

Cumulative Impact

27. This would be a suitable policy for the licensing authority to introduce. The residents and Parish very much support this. It does, as has been identified, only relate to new premises licences, or variations of existing premises licences, but it does represent a control over proliferation, and it provides an additional ground for the licensing authority to refuse a new event, even though there is nothing objectionable about the event in and of itself, only the fact that it will add to the current saturation of events.

28. The Council does not have an unfettered discretion to grant or refuse licences, but must only do so in accordance with the law. The Council has, indeed, a duty to grant a premises licence if there are no representations against it, and a policy framed in the above terms would not be lawful. This is why a special policy (cumulative impact policy) can be useful, as an additional power for the Council to say “no”, in the right circumstances.

29. As it happens, cumulative impact is always an issue, whether there is a special policy in place or not; (*Luminar Leisure Ltd v Wakefield Magistrates' Court, Brooke Leisure Limited, Classic Properties Limited, Wakefield Metropolitan District Council* [2008] EWHC 1002 (Admin) and the s182 Guidance). This is a good opportunity for the licensing authority to introduce a policy formally into their statement of licensing policy however. This would now be under the terms of the recent Policing and Crime Act 2017 (which I set out in Appendix A to this Advice.)

30. The introduction of the statutory cumulative impact policy in April 2018 was as a result of the Home Office’s Modern Crime Prevention Strategy, published in March 2016, which included a range of measures on preventing alcohol-related crime and disorder, including a commitment to put Cumulative Impact “*on a statutory footing, to strengthen the ability of authorities to control the availability of alcohol and reduce alcohol-related crime and disorder, as well as providing industry with greater clarity about how they can be used*”.

31. Cumulative Impact policies do provide local authorities with greater control, and we believe that Remenham would benefit from the introduction of such a policy. It would not have an impact on current licences, but it does mean that if any current event lapsed, and the licence was surrendered or ended for some reason, it would not be possible simply to get a replacement.

Other Issues

32. The Licensing policy should set out expectations for their responses to future premises licence applications (or TENs).

33. Reviews of existing premises licenses, as indicated above, are not just appropriate where there has been a breach of the licence or a condition; they concern more generally the failure to promote the licensing objectives. This is something that could be discussed with the responsible authorities as well. It is certainly true that residents fare less well on their own in bringing a review if they do not have the support of at least one responsible authority. It is not impossible, however, as precedent shows.

34. All licenses issued should be readily available to all and published on the WBC website as they used to be. WBC should observe its own transparency code in this regard. The Licensing Authority is WBC notwithstanding it is operated as a joint service.

35. As mentioned previously, in 7.2 of the policy it should be specific as follows: -“The nuisances which the Council will seek to control are, amongst others:-

- Noise and vibration
- Light
- Odour
- Litter
- Anti-social behaviour
- Unreasonable disturbance from customers arriving and leaving premises
- Impact of customer parking
- disturbance caused by vendor/supplier/licensee ‘set up’ and ‘shut down’ activities”

36. The “Decision on whether a complaint is irrelevant, frivolous, vexatious etc.” should in all cases be referred to the full committee; officers should not make that decision. Complainants should have the opportunity to address the committee.

37. All issues in paragraph 12 Licensing decisions should be reported to the full committee and a ward member should be entitled to refer any decision to the committee rather than having it delegated to officers.

Yours sincerely,

John Halsall
Chairman of Remenham Parish Council
Ward member for Remenham, Wargrave and Ruscombe

Appendix A

Policing and Crime Act 2017

141 Cumulative impact assessments

(1)The Licensing Act 2003 is amended as follows.

(2)In section 5 (statement of licensing policy), after subsection (6C) insert—

“(6D)In determining or revising its policy, a licensing authority must have regard to any cumulative impact assessments published by it under section 5A.

(6E)A licensing statement must—

(a)summarise any cumulative impact assessments published by the licensing authority under section 5A, and

(b)explain how the licensing authority has discharged its duty under subsection (6D).”

(3)After section 5 insert—

“5A Cumulative impact assessments

(1)A licensing authority may publish a document (“a cumulative impact assessment”) stating that the licensing authority considers that the number of relevant authorisations in respect of premises in one or more parts of its area described in the assessment is such that it is likely that it would be inconsistent with the authority’s duty under section 4(1) to grant any further relevant authorisations in respect of premises in that part or those parts.

(2)A cumulative impact assessment must set out the evidence for the authority’s opinion as set out in the assessment in accordance with subsection [\(1\)](#).

(3)For the purposes of this section, “relevant authorisations” means—

(a)premises licences;

(b)club premises certificates.

(4)A cumulative impact assessment may relate to all relevant authorisations or only to relevant authorisations of a kind described in the assessment.

(5) Before publishing a cumulative impact assessment, the licensing authority must consult the persons mentioned in section 5(3).

(6) For the purposes of the consultation, the licensing authority must provide the persons mentioned in section 5(3) with the following information—

(a) the reasons why it is considering publishing a cumulative impact assessment;

(b) a general indication of the part or parts of its area which it is considering describing in the assessment;

(c) whether it considers that the assessment will relate to all relevant authorisations or only to relevant authorisations of a particular kind.

(7) Where a licensing authority publishes a cumulative impact assessment, it must, before the end of each relevant period, consider whether it remains of the opinion stated in the assessment.

(8) Before deciding whether it remains of that opinion, the licensing authority must consult the persons mentioned in section 5(3).

(9) If the licensing authority is no longer of that opinion—

(a) it must publish a statement to that effect, and

(b) the duties in section 5(6D) and (6E) and subsection [\(7\)](#) of this section cease to apply in relation to the assessment.

(10) If the licensing authority remains of that opinion, it must revise the cumulative impact assessment so that it—

(a) includes a statement to that effect, and

(b) sets out the evidence as to why the authority remains of that opinion.

(11) A licensing authority must publish any revision of a cumulative impact assessment.

(12) In subsection (7), “relevant period” means the period of three years beginning with the publication of the cumulative impact assessment or a revision of the cumulative impact assessment.”



Response by Henley Royal Regatta to Consultation relating to the Review of the Statement of Licensing Policy conducted by Wokingham Borough Council ("WBC")

Introduction

Henley Royal Regatta ("HRR") received notification by email of 9 May from WBC that WBC is in the process of reviewing its Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003.

In addition to a general review of the existing Policy (with reference to a draft 2018 Policy), HRR was notified that *"In addition, the Council will consider whether a cumulative impact policy ought to be applied for the Remenham area"*.

HRR (acting by its licensing solicitors, Blandy & Blandy LLP) has taken into account the following documents, and submits its Response below:

1. The draft Statement of Licensing Policy, July 2018 issued by WBC.
2. Public Document Pack (Cumulative Impact Policy section): WBC Licensing and Appeals Committee, 21 November 2017;
3. Public Document Pack: WBC (Cumulative Impact Policy section) Licensing and Appeals Committee 21 March 2018¹
4. The Revised Guidance to the Licensing Act 2003, issued April 2018.²
5. Revised Guidance to the Licensing Act 2003, April 2017.³
6. The House of Commons Briefing Paper – Alcohol: Cumulative Impact Assessments, 2 May 2017.⁴
7. Police Crime Statistics for period 2012 to 2017 provided by Thames Valley Police.
8. Unconfirmed information provided by WBC as at May 2018
9. Miscellaneous information from different Licensing Authorities including Westminster City Council; London Borough of Newham and Reading Borough Council.⁵
10. Information available on Remenham Parish Website⁶

¹ <http://wokingham.moderngov.co.uk/documents/g2568/Public%20reports%20pack%201st-Mar-2018%2019.00%20Licensing%20and%20Appeals%20Committee.pdf?T=10>

<http://wokingham.moderngov.co.uk/documents/g2567/Public%20minutes%201st-Nov-2017%2019.00%20Licensing%20and%20Appeals%20Committee.pdf?T=11>

² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018.pdf

³ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/627825/revised_182_guidance_05_04_17.pdf

⁴ <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7269>

⁵ <http://www.reading.gov.uk/media/1376/Councils-Policy-Statement/pdf/Licensing-Policy-30-September-2013.pdf>

<https://www.westminster.gov.uk/statement-licensing-policy>

<https://www.newham.gov.uk/Documents/Business/LicensingPolicy.pdf>

⁶ <https://www.remenhamparish.org.uk/>

Response

In terms of our Response, HRR sets out its observations in two parts; the first relating to its general observations on the draft 2018 Policy; the second relating to whether or not a cumulative impact policy should be adopted for the area of Remenham.

Part I: General Observations

In terms of the draft 2018 Statement of Licensing Policy attached (through a link) to the Consultation email of 9 May, HRR is of the view that this appears to be a well-drafted Policy – written in clear, understandable; user-friendly terms. The only observations that it makes regarding the draft document are:

1. *GDPR and CCTV*

In view of the introduction of the GDPR Regulations, it appears that paragraph 5.4 of the draft 2018 Policy may need to be expanded, to ensure that the Responsible Authorities and/or the licensed premises operators consider the impact of those Regulations, on licensed premises' operations.

2. *Enforcement Protocol:*

It might assist all concerned (including licensed premises operators; Responsible Authority officers and Thames Valley Police) if the "enforcement protocol" referred to in (draft) paragraph 5.7 is attached to the 2018 Policy as an Annex, or is included by way of a link. This may not only assist all concerned in understanding how the protocol will be operated (hopefully leading to a decrease in the need to apply the protocol), it should assist in 'ironing out' the risk of inconsistencies of treatment in terms of enforcement.

In the event that the "enforcement protocol" mentioned in paragraph 5.7 is the same as is mentioned in paragraph 14 – perhaps the former should refer to the latter.

3. *Protection of Children from Harm:*

WBC may wish to consider whether paragraph 8.3 should be revised to ensure that, for appropriate licensed premises, the principles set out in that paragraph do not (unintentionally) negatively impact on children being present. Before the bullets listed in that paragraph, it might be preferable to insert the following wording
"Depending on the nature of the proposed licensed premises, and the activities to be conducted therein, the following are measures which may (or may not) be relevant to the promotion of this Licensing Objective (to minimise the risk of harm to children)...."

Further in relation to paragraph 8.5, WBC may wish to consider expanding this paragraph to specifically refer to such schemes as "Challenge 25" to ensure greater clarity.

4. *Cumulative Impact:*

We note that the draft 2018 Policy is currently is drafted on the basis that no "Special Policy" (CIA) is applicable to any area within WBC's Licensing Authority, which we believe (for the reasons elaborated on, below) is the correct position.

Further, with regards to paragraph 10.2, HRR has been advised that the inclusion of "and/or" in the second sentence of that paragraph does not reflect the section 18 of the Licensing Act 2003 – and specifically section 18(2) and 18(3). If no "relevant representations" are made to an application, then WBC is obliged to grant the licence subject to the provisions of section 18(2). Only where "relevant representations" are made, does the Licensing Authority have the ability to refuse the application (at Committee) under its powers under section 18(3) and 18(4). Consequently we understand that the reference to "and/or" in the second sentence of paragraph 10.2 should be amended to read only "and" to comply with the Licensing Act 2003.

Part II: Should a Cumulative Impact Policy (CIP) be applied to the area of Remenham?

In the Consultation email, little information is provided as to why the Parish of Remenham has been selected for consideration as a possible CIP area.

Remenham is a village and civil parish on the Berkshire bank of the River Thames opposite Henley on Thames. It falls within WBC Licensing Authority for licensing purposes; whereas the town of Henley on Thames (and beyond) falls within South Oxfordshire Licensing Authority.

HRR is not in a position to confirm the following details but on the information provided to it through various enquiries made by it, and by its solicitors, it believes that the details are reasonably accurate. No doubt further enquiries can be made if the following details are challenged:

1. There are **only 6 licensed premises** within Remenham which authorise **daily** licensable activities namely two public houses (Flower Pot (actually in Aston) and Little Angel) and four clubs (Remenham; Henley Cricket Ground; Leander and Upper Thames Rowing Club).
2. The remaining licensed premises only have restricted (in terms of number of days of operation) authorisations. There are c. 8 of these authorisations (for the purposes of this Response referred to as "limited licences") which authorise licensable activities at a handful of events spanning in total approximately 20 days per year (5.5%), with most events not running for more than a few days.
3. Most of these limited licences are closely related to outdoor sporting events including the Henley Royal Regatta; Henley Women's Regatta; Henley Oxford and Cambridge Lightweight Regatta; Henley Swim; Henley Veterans Regatta; the remaining limited licences being devoted to musical entertainment in the form of the Henley Festival and Rewind Festival.

4. Remenham Parish promotes its involvement in the various sporting and entertainment events as is evident from the link <https://www.remenhamparish.org.uk/>
5. Remenham Parish Council (RPC) has previously attempted unsuccessfully to convince WBC Licensing Authority that it is appropriate to introduce a Cumulative Impact Policy for the Remenham area.

Discussion has taken place on numerous occasions at the Licensing and Appeals Committee meetings including:

- (a) On 6th September 2010, in the context of the Policy Review, Remenham Parish Council ("RPC") made representations to the effect that it considered the draft Policy to be insufficient for the area of Remenham. Councillor Halsall (the Chair of RPC) made various points to the Committee following which a discussion took place including input from the Health and Protection Manager (as to why he considered that CIPs "did not comfortably fit with Remenham's situation of being a rural area" in contrast to urban environments with a number of premises in the same place, (operating) at the same time).
 - (b) In the context of the 2013 Statement of Licensing Policy Review – the eventual 2013 Policy did not include any CIP – presumably due to a lack evidence to support its inclusion.
 - (c) In September 2016, at a Licensing and Appeals Committee meeting on 7 September 2016: At this meeting, Agenda Item 13 was a "Licensing Act 2003 – Policy Review" document, which refers back to RPC's/Dr Halsall's comments in 2010, and recommends that the Licensing Committee commissions an external review to examine whether or not there is any evidence to support the adoption of a CIP. If an external review was undertaken, it does not appear to be available to the public.
 - (d) In November 2017, at the Licensing and Appeals Committee meeting on 21st, Agenda Item 31 was "Cumulative Impact Policy" with a report being provided (concerning the Consultation process; principles to be considered and satisfied, and evidence to be provided before the introduction of any CIP) and various Councillors commented on the item. Councillor Halsall (Vice-Chairman of the Licensing and Appeals Committee; Chair of Remenham Parish Council) made observations as did other Councillors.
6. **No evidence** has been provided to suggest that any negative impact on the promotion of the licensing objectives arises through the operation of the handful of 'day to day' licensed premises in the Remenham area.
 7. **The evidence that is available** relating to the operation of the 8 limited licences (mentioned in (2) above) **equally does not** (in our view) support any reasonable or sustainable argument that the licensing objectives are being negatively impacted through cumulative impact (or indeed otherwise).

Indeed with regards to our licensed operation at Henley Royal Regatta, it has on a number of occasions been readily acknowledged by the Responsible Authorities (including Thames Valley Police) that these are well-managed. In view of our modest trading hours (licensable activities finishing at 19:30 per day), and robust planning and operational procedures, HRR's licensing operation enjoys an excellent record in terms of promoting the licensing objectives, with any negative occurrences being virtually non-existent.

In terms of lack of evidence supporting the introduction of a CIA relating to Remenham, the following points are of relevance:

- (a) The events that operate under the limited licences **do not operate concurrently** and do not run for an uninterrupted period. The limited licences (currently permitting authorised licensable activities for c.20 days) relate to event days to which the public are invited on the same limited number of days, at intermittent periods, across roughly a 10 week period in the Summer months.
- (b) On approximately 345 days out of each year, **no licensable activities** take place under any of the limited licences.
- (c) "Cumulative Impact" must relate to "the number of relevant authorisations in respect of premises" in an area.... (Section 5A Licensing Act 2003). In this instance, (excluding the modest 'day to day' licensed premises), the remaining authorisations only comprise 8. Even taking their limited licensable operations together (in terms of days of licensed operation), they **do not operate 94.5%** of the year.
- (d) Prior to the introduction of the Revised Guidance to the Licensing Act in April 2018 (which makes reference to the statutory definition referred to in (c) above), "Cumulative Impact" was defined (in the then current Guidance) as meaning "the potential impact on the promotion of the licensing objectives of a **significant number of licensed premises, concentrated in one area**".⁷ (Emphasis added). It is implicit from the other comments in that Guidance (in paragraphs 14.20 to 14.41) and largely repeated in the current Guidance (at paragraphs 14.20 to 14.48) that the **significant number** of licensed premises must be **concentrated in one area**, and must be **operating at the same time**. Further, and crucially, there must be an **evidential basis** for the decision to implement a CIP (Cumulative Impact Assessment)
- (e) Evidence provided on a confidential by Thames Valley Police suggests that **there is a downward trend** in relation to any difficulties in terms of crime and disorder in the locality during the Regatta period. Specifically, we understand that the crime rate during the Regatta in 2016, dropped by 13 % from 2015, and in 2017 dropped by a further 44% from 2016.

⁷ Paragraph 13.20 Revised Guidance to the Licensing Act 2003, March 2015

No doubt Thames Valley Police will be able to confirm whether or not there has been a year on year decrease in instances of alleged crime and disorder at the events covered by the limited licences.

- (f) Further, the information set out in the **Cumulative Impact Policy Review** presented at the Licensing and Appeals Committee meeting on 21 November 2017 reported that following “**informal consultation to gauge** initial views in respect of the impact of events in Remenham” (essentially to ascertain whether there was evidence to substantiate anecdotal assertions from local residents) **no response** was provided from TVP Operations; SCAS or the local hospitals. The observations received were **largely positive responses**, from the Thames Valley Police Licensing Officer; Highways Authority and Environmental Health (confirming that complaints were minimal; resolved quickly and/or historic).⁸
- (g) In the context of this current consultation, HRR (through its solicitors) made enquiries as to whether Thames Valley Police/SCAS/Hospitals had made any response to the Consultation. It believes that, as at 24 May 2018, no responses had been received.

Conclusions

In conclusion, save for the general observations made in Part I of this Response, we consider the draft 2018 Policy to be appropriate, as currently drafted.

For the reasons set out in Part II of this Response, we have seen no evidence to support any adoption of a CIA for Remenham and consider therefore that no CIA should be included in the 2018 Policy. Indeed unless suitable evidence (which is capable of standing up to clear scrutiny) is forthcoming through this Consultation, in our view the Licensing Authority could not adopt a CIP. The information which the Licensing Authority would need to consider (in order to form a reasonable, objective belief that pertinent evidence (of sufficient weight) existed is as bulleted by the Licensing Officer in the Consultation email of 9 May – which in turn is taken from the Revised Guidance (April 2018) paragraph 14.29. Whilst of only peripheral relevance and by way of example only, it is perhaps interesting to see the considerable body of statistical evidence provided to Westminster City Council; to Newham Council and to Reading Borough Council before it was accepted that a CIP was appropriate.⁹

⁸ Page 3 and top of page 4 of the Cumulative Impact Policy Review 21 November 2017- <http://wokingham.moderngov.co.uk/documents/g2567/Public%20reports%20pack%2021st-Nov-2017%2019.00%20Licensing%20and%20Appeals%20Committee.pdf?T=10>

⁹ WCC Licensing Policy with Cumulative Impact Assessment <https://www.westminster.gov.uk/statement-licensing-policy>

The importance of decisions being made, regarding the introduction of CIPs, following consideration of appropriate, transparent, evidence (and the avoidance of such decisions being reached on weak evidence) was a point emphasised by the House of Lords when introducing the proposed changes under the Police and Crime Act 2017.¹⁰ The need for evidence which can stand up to scrutiny is a point emphasised in the House of Commons Briefing Paper of 2 May 2017 entitled "Alcohol: Cumulative Impact Assessments".¹¹

In the unlikely event of such evidence being produced, it is also incumbent on the Licensing Authority to consider all of the principles set out in paragraphs 14.20 to 14.48 of the Guidance (as well as its wider provisions), before publishing a CIA.

Whilst assisting HRR in preparing this Response, its solicitors requested sight of document(s) mentioned in the Licensing and Appeals Committee Minutes, which were not available at the time of submission of this Response. HRR would welcome the opportunity to reflect on those documents and the Consultation Responses, and to elaborate on this Response (if needs be) in due course.

D. G. M. Grist
Secretary & Chief Executive
Henley Royal Regatta
8 June 2018

Note: Throughout this Response, any bold font has been used only for emphasis and clarity.

¹⁰ HL Deb 9 November 2016

¹¹ <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7269>

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WITHOUT PREJUDICE SAVE AS TO COSTS

Dear Sir / Madam

Wokingham Borough Council Consultation Licensing Act 2003 Review of Statement of Licensing Policy

We write to you on behalf of The Copas Partnership (TCP) in respect of Wokingham BC's (WBC) consultation on the review of its statement of licensing policy; in particular the consideration of *whether a cumulative impact policy ought to be applied in the Remenham area.*

We write to inform you that the lawfulness of the purported consultation exercise being carried out by WBC is challenged and that should WBC introduce a cumulative impact policy (CIP) or cumulative impact assessment (CIA) based on the purported consultation WBC is put on notice that any such CIP or CIA will be challenged by way of judicial review on the grounds outlined below. The right is, of course, reserved to expand on these grounds and to include any other grounds in due course.

Background to Remenham CIP consultation

WBC's Licensing & Appeals Committee on 6 September 2010 considered the review of WBC's 2010 statement of licensing policy. John Halsall, as Chair of the Remenham Parish Council (RPC), raised concerns *that the proposed policy did not cover cumulative impact. The Health & Protection Manager believed that the statutory guidance on this matter referred to a number of premises in the same place at the same time. He thought that this was aimed at more urban environments and did not comfortably fit with Remenham's situation of being a rural area.*¹ The 2013 policy did not include a CIP.

A first step towards asking the Committee for a decision on whether to include a Cumulative Impact Policy ... for the Parish of Remenham was taken at a meeting of the WBC Licensing & Appeals Committee on 7 September 2016 (Agenda Item 13).²

¹ Minutes of a Meeting of the Licensing & Appeals Committee held on Monday 6 September 2010 from 6PM to 7.05PM.

² Minutes of a Meeting of the Licensing & Appeals Committee held on 7 September 2016 from .00PM to 8.00PM.

The Report to the Committee notes an email from Mr Dudley acting for the Remenham Farm Residents Association (RFRA) *had requested the consideration of a CIP relating to future premises licence applications on the riverside land in the Parish of Remenham from Henley Bridge to Temple Island.* The report paraphrases some of the then statutory guidance and at para.4.1 purports to deal with 'Remenham Specific Issues' but does no more than to note that:

the express concern (over many years) of those living and operating in the Remenham area are that the gradual increases in levels of visitors to the area as a result of events (with a variety of histories/traditions/commercial interests) has negatively impacted upon quality of life and Key to this is the ability of the licensing authority to understand how these concerns translate into 'evidence' that can be effectively used in consideration of a new CIP attached to the main Licensing Act 2003 policy.

There was debate about whether an external review of the evidence should be carried out by legal experts. It should be noted that some of the advice given to the committee was incorrect. Paul Anstey, Joint Services Manager, is minuted as clarifying *that licences were issued without a time limit.* This is not necessarily the case and, for example, the Open Swim licence (PRO429) is time specific running from 19 May 2016 to 30 September 2021.

After a robust discussion it was put to the vote and recommended that:

The recommendation contained in the report to commission an external review of evidence to support the adoption of a Cumulative Impact Policy for the parish of Remenham, subject to agreement from the Executive Member for Resident Services due to the financial implications.

WBC's Licensing & Appeals Committee met on 21 November 2017 with John Halsall sitting as Vice-Chairman.³ There were no declarations of interest. The Committee considered the CIP report (pp.77-82 of the Agenda)

John Halsall addressed the Committee *to illustrate the problem* which was that legal advice had been given at a licence application hearing that without a CIP the Committee could not take account of cumulative impact. This is incorrect (statutory guidance para.14.42) and accepted by WBC in its CIP Agenda report item 17 at p.79:

The absence of a special policy does not prevent any responsible authority or other person making representations on an application for the grant or variation of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

An informal consultation with the police and health bodies was carried out by WBC. It received no reply from Thames Valley Police Operations or SCAS/Hospitals. Replies from the TVP licensing officer ('a few minor skirmishes' and an overcrowding issue in 2015), Highways (two litter complaints per year and *a good safety record*) and Environmental Health (two noise complaints 2015, one 2016 and none 2017). The Parish Council/Ward Member claimed nuisance from May to September and that a CIP would be appropriate. No specific evidence supplied, merely generalised complaints.

The Licensing & Appeals Committee met on 13 March 2018 and *the Committee was unanimously in favour to start a consultation as proposed in the report.* John Halsall was present. No declarations of interest were made. A draft policy was published and displayed on the website under the consultation

³ Minutes of a Meeting of the Licensing & Appeals Committee held on 21 November 2017 from 7.00PM to 8.13PM.

– the section on cumulative impact was unchanged from the 2013 policy so there were no details to inform anyone looking for details of the consultation what it was about.

Ground 1: Cumulative impact policies replaced by cumulative impact assessments

Cumulative impact was not originally included in the Licensing Act 2003 (the Act). CIPs were introduced by the statutory guidance in 2005. CIPs were replaced by CIAs which were introduced into the Act at section 5A by section 141 of the Policing and Crime Act 2017. Revised statutory guidance was published in April 2018 which contains major revision of the guidance in relation to cumulative impact (para. 14.24 on).

The WBC consultation was published (by email) on 9 May 2018 and referred to consideration of a *cumulative impact policy* (emphasis added). However, the provisions of section 5A of the Act took effect from 8 April 2018 and the *revised guidance takes effect as soon as it is published*.⁴ WBC have therefore sought to publish, as part of their statement of licensing policy review, a consultation on a cumulative impact policy when such policies can no longer be introduced; having been replaced by CIAs.

The change from CIPs to CIAs is not simply one of name but represents important reform of the way in which cumulative impact measures may be adopted by licensing authorities. For putting cumulative impact policies on a statutory footing with effect from 6 April 2018 aims to *provide greater clarity and legal certainty about their use ... When introducing the proposed changes in the House of Lords, Baroness Chisholm of Owlpen said the system needed reforming because “not all licensing authorities are making effective or consistent use of” CIPs. In addition, the licensed trade had “concerns about the transparency of the process for putting a CIP in place and the quality of evidence used as the basis for some”*.⁵

A Home Office Impact Assessment on the proposal noted:

*We will also aim to ensure that LAs use robust and up to date evidence to support the implementation and retention of CIPs in their area ... Under the present arrangements CIPs can be implemented on relatively weak grounds and remain in place for a number of years based on limited or outdated evidence. This can lead to disproportionate restrictions on new business and potentially an associated impact on communities where a CIP places restrictions.*⁶

Ground 2: Failure to follow proper procedures

WBC recognises in its statement of licensing policy that:

If the Council considers that a ‘Special Policy’ is needed to deal with the cumulative impact of licensed premises, it will only do so following consultation as specified in the Licensing Act 2003 and following the proper process (10.3).

The Supreme Court decision in *Haringey 2014*⁷ is the leading authority on how local authorities should carry out consultations. It held that if there is a method laid down by legislation, as there is in the Licensing Act, it must be followed; and where there is a duty to consult it is not enough to go through

⁴ *Revised Guidance issued under section 182 of the Licensing Act 2013*, London: Home Office, para.1.6.

⁵ *Alcohol: cumulative impact assessments*, House of Commons Briefing Paper Number 07269, 2May 2017.

⁶ *Putting Cumulative Impact Policies on a statutory footing*, IA No: HO 0253 (1/11/2016).

⁷ *R (on the application of Moseley (in substitution of Stirling Deceased)) (AP) v London Borough of Haringey* [2014] UKSC 56

the motions – which is all WBC has done, albeit on the wrong basis. The authority should give sufficient reasons for any proposal to allow a consultee to *give an intelligent consideration and response* to what is being proposed. There is an obligation to let consultees know *what the proposal is and exactly why it is under positive consideration ... telling them enough (which may be a good deal) to enable them to make an intelligent response* – which WBC has not done. Adequate time must be given for consideration and response. A month is not sufficient time.

The Cabinet Office published *Consultation principles: guidance* in 2008 which was last updated on 19 March 2018. The guidance is for government departments and is accepted to be equally relevant to local authorities. *Be clear what questions you are asking* – WBC ask none. *Consultations should be informative. Give enough information to ensure that those consulted understand the issues and can give informed responses* – WBC has not done this.

By section 5A of the Act, before the authority publishes a CIA it must consult the police; fire & rescue services; local health board; premises, club premises and personal licence holders; and businesses and residents in the area. WBC provides a list of consultees at Annex B of Agenda Item 27 L&A Committee 21 March 2018. There is no mention of businesses and residents in the area. If a search is made for the consultation on WBC's website all that is found is a link to the draft 2018 policy which does not contain details of the proposed CIP.

Section 5A also lays down what the licensing authority must provide to those consulted:

The reasons why it is considering publishing a cumulative impact assessment. WBC has not done this. The email sent on 9 May 2018 does not give any reasons and offers no evidence. It also refers to CIPs which have now been replaced with CIAs which are differently described in the statutory guidance. There is no real engagement; WBC is merely following a bureaucratic process which is no more than going through the motions.

A general indication of the part or parts of its area which it is considering describing in the assessment. 'Remenham' is not sufficient and is not what was requested by the RFRA at the L&A Committee on 7 September 2016, which specified 'riverside land'. As stated in Agenda item 17 of the 21 November L&A Committee on the basis of legal advice from a leading licensing QC: *the policy would need to be site specific*. Despite this WBC apparently considers the whole of Remenham acceptable – are there issues for the whole area? This is not 'site specific'. Does 'Remenham area' refer to Remenham Village or Remenham Parish? A map should have been included so that consultees could know the area in question.

Whether it considers that the assessment will relate to all relevant authorisations or only to relevant authorisations of a particular kind. The email is silent in this respect. Can it be taken that all authorisations are to be included? Where is the evidence to link particular licensable activities with adverse effects on the licensing objectives? Detail should have been included so that consultees could know the types of licensable activities that are in question.

The statutory guidance⁸ makes clear the steps that a licensing authority should take when considering whether to introduce a CIA:

- (1) Identify concern about crime and disorder; public safety; public nuisance; or protection of children from harm in a particular location.

⁸ *Revised Guidance issued under section 182 of the Licensing Act 2003*, April 2018, para.14.34.

- (2) Consider whether there is good evidence that crime and disorder or nuisance are occurring, or whether there are activities which pose a threat to public safety or the protection of children from harm.
- (3) If there is evidence such problems are occurring, identify whether these problems are being caused by the customers of licensed premises, or that the risk of cumulative impact is imminent.
- (4) Identify the boundaries of the area where problems are occurring (this can involve mapping where the problems occur and identifying specific streets or localities where such problems arise).
- (5) Consult those specified in section 5(3) of the 2003 Act, and
- (6) subject to the outcome of the consultation, include and publish details of the special policy in the licensing policy statement.

It is clear from this that the authority must consider the nature and extent of any cumulative impact and the evidence to support it *before* it goes to consultation and give this information to those being consulted so that they are able to give an informed response. This is made clear in paras. 14.29-14.33 of the Home Office guidance which concludes:

After considering the available evidence and consulting those individuals and organisations listed in section 5(3) of the 2003 Act and any others, a licensing authority may be satisfied that it is appropriate to publish a CIA (para.14.33).

The statutory guidance makes clear the steps that a licensing authority should take when considering whether to introduce a CIA. Plainly, WBC has not complied with this in any meaningful way, if at all.

Ground 3: Bias/conflict of interest/incorrect advice

Bias

The recommendation at the September 2016 meeting was to commission an external review of evidence **to support** the adoption of a Cumulative Impact Policy rather than to examine the evidence (emphasis added). This is also tacit admission that the evidence to support the consultation is at best to be gained post facto to the consultation.

A recent licence application, for 'By the River', attracted three representations. For some reason names and addresses have been redacted (see paras.9.26-9.30 statutory guidance). One of the representations states that WBC is considering a CIP and that *we are assured that it will receive sympathetic consideration in the current review of Licensing being carried out by WBC*. Who felt able to say this and on what basis?

Conflict of interest

Adoption of a CIP has been supported by the RPC and RFRA. John Halsall is chair of RPC and a member of RFRA. He lives in the house adjacent to TCP operations for the Women's Regatta, HRR (barn bar) and Henley Masters Regatta. He would have an interest in a CIP which covers this area.

John Halsall sat as Vice-Chair of the L&P Committee on 21 November 2017. No declarations of interest were given. From the minutes it appears that he took a full part in the meeting. In particular he gave information to the Committee *In order to illustrate the issue* so that the committee would understand the need for a CIP – but the information given was incorrect (para.9 above). The Agenda contains the informal consultation responses. One, in support of the introduction of a CIP, is from 'Parish Council/Ward

Member'. Is this John Halsall? The minutes state that *after much discussion and upon being put to the vote, most Members were in agreement that the consultation should be carried out ...* We are not told what the vote was.

After the committee meeting JH writes in the Remenham Newsletter⁹ *finally there is some action on cumulative impact as an officer has been asked to prepare a report for the Licensing Committee of WBC.*

John Halsall also sat as Vice-Chair of the 21 March 2019 meeting which resolved that a consultation exercise should be carried out. No declarations of interest were given. John Halsall should have recused himself from both the November 2017 and March 2018 meetings.

Incorrect advice

At the L&A Committee on 7 September 2016 Paul Anstey, Joint Services Manager, is minuted as clarifying *that licences were issued without a time limit.* This is not correct. For example, the Open Swim licence (PRO429) is time specific running from 19 May 2016 to 30 September 2021.

At the L&A Committee on 21 November 2017 further incorrect information was given relating stating that legal advice had been that cumulative impact may not be considered without a CIP being in place.

The discussions and decisions of WBC's licensing committee were based on incorrect information which would have misled them into considering that a CIP consultation was justified.

Lack of evidence to support a consultation

WBC embarked on the consultation with insufficient evidence to support it. The informal consultation reported in the Agenda of the 21 November 2017 licensing committee meeting certainly did not produce evidence to justify a CIA.¹⁰ Thames Valley Police made no response and the TVP licensing officer had nothing much to report other than *a few minor skirmishes all of which were dealt with by on site security* and an overcrowding issue in 2015 which was resolved. It concludes: *there has been nothing of such a nature that they would deem any action such as review of any premises to be necessary.* TVP, which has access to statistical information on crime and disorder in the area, did not produce evidence to support the introduction of a CIP/CIA and have not expressed concerns about crime and disorder, public safety or the protection of children from harm.

No response was received from SCAS/Hospitals and the Highway Authority has had nothing more than two complaints per annum over the last five years for litter and two slight personal injury accidents. It concludes: *This information suggests a good safety record during the event – demonstrating that the present system is working well and there is no need for a CIA.*

The Parish Council/ward member responded: *Between May and September each year, Remenham is subject to impact and noise from a variety of events which run consecutively and in some cases concurrently.* We are not told what 'impact' covers but the response goes on to state that the roads are not suitable – this is a Highways matter and the Highways Authority does not raise the issue in its response but states of the two slight personal injury accidents: *neither of which were directly attributable to the traffic management during the event but were linked to the error of the person involved* - again demonstrating that the present system is working well and there is no need for a CIA.

As to noise, Environmental Health reports two complaints about noise in 2015 (both from Mahiki), one in 2016 from The Angel on the Bridge and none in 2017. Hardly the stuff of a CIA area and the

⁹ No 259 – Nov-Dec 2017, p.16.

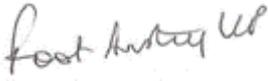
¹⁰ *Ibid*, Agenda Item 17.

premises concerned have not been the subject of subsequent complaints - again demonstrating that the present system is working well and there is no need for a CIA.

'Rewind' was reviewed in 2013 for breaching its licence in respect of noise. Additional conditions were put in place and there have been no complaints since – this is an excellent example of the system working well and the lack of need for a CIA.

WBC published a consultation based on no or insufficient evidence thereby failing to comply with the procedures which should have been followed.

Yours faithfully

A handwritten signature in black ink that reads "Foot Anstey LLP". The signature is written in a cursive, slightly slanted style.

Foot Anstey LLP

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To: Licensing Dept – Wokingham Borough Council

Re: Statement of Licensing Policy – July 2018

This email is submitted by the Remenham Farm Residents Association “RFRA” supporting the proposed cumulative impact licensing policy for Remenham as outlined by Wokingham Borough Council “WBC”

The RFRA is a group of eight owner-occupiers of residential properties in Remenham Lane which lie within the Remenham Church Conservation Area and whose names/addresses/years in residence are given below

REDACTED – 48 years

REDACTED – 40 years

REDACTED – 37 years

REDACTED – 24 years

REDACTED - 22 years

REDACTED – 19 years

REDACTED – 11 years

REDACTED – 11 years

The objectives of the RFRA are to:

Provide a representative interface with WBC and Premises Licence holders.
Monitor and report on licensed activities and any associated public nuisance.
Maintain the rural environment and secure the rights of ‘quiet enjoyment’.

The Parish of Remenham is a small rural community evidenced by the fact there are no public services such as mains water, mains sewerage, mains gas and no public transport whatsoever.

Much of the land is the subject of restrictive covenants imposed by Viscount Hambleden in 1948 (the benefit of which is now vested in the National Trust) to protect the rural nature of the land and over the years WBC has chosen to ignore these covenants when issuing Entertainment Licences.

During the months of July and August the following riverside activities, all prefixed by ‘Henley’ yet nevertheless taking place wholly within Remenham Parish and adjacent to Remenham Lane.

At a conservative estimate this involves the influx of at least 200,000 people mostly arriving by car and creating immense public nuisance and safety concerns on the access points along Remenham Lane, which is very narrow, in many places single track, and totally unsuited for such volumes of traffic. **There have been several instances in the past where emergency vehicles have been unable to gain necessary access to provide their services.**

The licensed activities set out are spread over twelve weekends in the Summer and when taken into account with the considerable set-up and take-down times, often several days before and after each individual event with large commercial vehicles coming and going on a daily basis. Consequently the Parish in general but more specifically the residents in Remenham Lane are subject to tremendous public nuisance and which shows no signs of abating. We call it “event creep”.

Henley Royal Regatta
Henley Festival
Henley Women’s Regatta
Henley Oxford & Cambridge Lightweight Regatta
Henley Swim
Henley Veterans Regatta
Henley Classical FM concert
Henley Rewind South Music Festival

We therefore wish to strongly support the adoption of a cumulative impact licensing policy on the following grounds:

1 Public Nuisance

This is where an activity “endangers or interferes with the lives, comfort, property or common rights of the general public”. In view of the already multiple activities noted above, we consider that the issue of any further Licences in Remenham over this period will constitute a public nuisance, both in respect of noise, quiet enjoyment and traffic. Should WBC nevertheless be minded to grant further licences, due recognition of the associated public nuisance should be made. This is reinforced by experience, over the last ten years, in the management of the Rewind Festival, where despite repeated assurances by the organisers, noise and traffic issues have risen every year with a significant increase in public nuisance.

2. Health and Safety concerns

Remenham Lane simply cannot cope with these extreme amounts of traffic, both cars and especially large commercial vehicles before, during and after these events, such that emergency vehicles (Fire & Ambulance) are frequently held up and unable to attend promptly and efficiently thus presenting a real threat to the Health and Safety of both persons and their properties. We have recently sent photographic evidence of this to the Licensing Dept at WBC. We would also add that Remenham Lane is the subject of a daily 'rat run' where vehicles wanting to cross Henley Bridge use the lane to avoid the lengthy queues of traffic on Remenham Hill – adding further to the problem.

3. Existing licences

We fully accept that the existing licences for Remenham will not be affected by the introduction of this amended policy.

We thank you in advance for your cooperation in this matter.

Yours truly

REDACTED - (Secretary) Remenham Farm Residents Association

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The Woodley Town Council Planning Committee considered the draft Statement of Licensing Policy, July 2018, at a meeting on 22 May 2018 and had no comment to make on the proposed Statement.

Kind regards

Committee Officer
Woodley Town Council
The Oakwood Centre, Headley Road
Woodley, Berkshire, RG5 4JZ

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I have seen, and endorse, the comments made by Michael Dudley on behalf of the Remenham Farm Residents' Association, of which I am a member.

In particular, I would press for a Cumulative Impact Policy to be adopted for the Parish of Remenham, by reason not only of the Events themselves but of all the traffic and public nuisance caused in the setting up and taking down of Event structures. The lanes of our Parish are just not sufficient to allow any further Licences being granted, by reason of nuisance, traffic and quiet enjoyment; also the consideration of emergency vehicle access during these periods.

Please acknowledge receipt of my comments.

REDACTED,
Remenham

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My name is REDACTED, a resident of Remenham Parish. I live with my wife at REDACTED Remenham Lane, REDACTED. We have been resident at this address for 18 years.

I write with reference to the Consultation Document relating to the above review. Since we moved here in 2000, we have witnessed a very significant increase in the scale and number of events that have significant impact on this small community. In addition to the traditional Henley Royal Regatta, we have seen the addition of an extended Women's Regatta, a Veterans Regatta, a Rewind Music Festival, several Henley Swim Events, the Henley Festival etc, etc. Although these events are pre fixed by the word "Henley", the vast majority of the activities associated with the events take place in Remenham. The events give rise to massive traffic issues on the days of the events themselves, but also huge disruption on the days before and after each event, usually involving very heavy vehicles trying to access various parts of the areas along the river along narrow country lanes that are dangerously unsuited to them.

Although the Henley Royal Regatta is, for the most part, well managed from a safety and public nuisance perspective, the other events are not. The organisers have neither the budgets nor the inclination so to do.

As time goes on, the vehicles involved in "set up" and "take down" are becoming larger - and the numbers attending the events greater and greater, giving rise to massive disruption and potentially dangerous situations.

I give you two examples:

- last year, in Remenham Lane, during the Rewind Festival, there was a near very serious accident caused by inefficient and confusing traffic management.

- also last year I was unable to exit Remenham Lane while attempting to take my wife to Hospital due to a complete blockage resulting from an unsuitably large truck getting jammed against parked cars in the narrow lane. Luckily this was not a life threatening emergency, but had it been so, there is no way that any emergency Vehicle could have accessed the lane from either end.

These are but two examples of the public safety and public nuisance impact of allowing ever increasing activities in Remenham.

In our view, the Licensing Authority have an obligation to assess each Licensing Application for events in Remenham from the perspective of the Cumulative Impact on this small community in terms of both Public Nuisance and Public Safety. Continuing to permit an ever increasing number and scale of events in this small area will only increase the possibility of a major tragedy

Sincerely, REDACTED

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TITLE	Review of Statement of Gambling Principles
FOR CONSIDERATION BY	Licensing and Appeals Committee 27 June 2018
WARD	Non-specific
DIRECTOR	Sean Murphy - Public Protection Manager

OUTCOME / BENEFITS TO THE COMMUNITY

Section 349 of the Gambling Act 2005 ('the Act') requires all licensing authorities to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act ('Statement'). The Statement will last for a maximum of three years and can be reviewed and revised by the authority at any time.

The present Statement was published to take effect from the end of January 2016 and therefore must undergo a review and be re-published to take effect by the end of January 2019.

RECOMMENDATION

That the Committee notes the consultation responses and provides any comments on the proposed amendments as set out within the report.

SUMMARY OF REPORT

This report details the results of the consultation exercise carried out as required by legislation. The responses received are attached as annexes to the report. The report further details the proposed actions to address the comments, for discussion and consideration.

Background

The Statement must be produced following consultation with those bodies and persons set out in subsection (3) of section 349 of the Act. This includes the Chief Officer of Police, persons who represent the interests of persons carrying on gambling businesses in the area and persons who represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act. The views of all consultees should be given appropriate weight when the policy is determined.

The response from Gamcare at Annex B, although not being specific to Wokingham, has been noted and will be taken into account for the final draft of the Statement. In particular, officers will look to draft a Local Area Profile for any applicants to use when considering the content of their applications. This will be a stand-alone document so that it can be kept up to date to reflect any local changes or concerns.

In addition to the need to update a couple of old references, the response from the ABB at Annex C makes three suggestions. The following table outlines these and confirms the proposed actions to address these comments in the second column.

Suggestion	Proposed amendment
Removing the suggestion that the authority may implement a policy that there may be specific areas where gambling premises should not be located.	This will be replaced by a reference to the Council's Local Area Profile. This document should detail any areas of concern that should be taken into account by any applicant and addressed within their application as appropriate. Each application is to be considered on its own merits.
Make it clear that premises licences are subject to mandatory and default conditions and any additional conditions will only be imposed where there is evidence of a need in the circumstances of a particular case.	The Statement will be updated accordingly.
Ensure there is a clear distinction between betting machines and gaming machines.	A clarification will be added to confirm that premises are entitled under the legislation to make up to 4 gaming machines available for use.

The intention is to bring a final version of the Statement to the Committee on 11 September, prior to it being referred to Council for approval in November.

Analysis of Issues

The statement of principles must, by law, be revised and re-published to take effect from the end of January 2019.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	No impact	N/A	N/A
Next Financial Year (Year 2)	No impact	N/A	N/A
Following Financial Year (Year 3)	No impact	N/A	N/A

Other financial information relevant to the Recommendation/Decision
None

Cross-Council Implications (how does this decision impact on other Council services, including properties and priorities?)

There are no implications arising from the recommendation in this report.

List of Background Papers

Statement of Gambling Principles (Nov 2015)

Contact Laura Driscoll	Service Public Protection Partnership
Telephone No 01344 352517	Email laura.driscoll@westberks.gov.uk
Date 12 June 2018	Version No. 1.2

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The Woodley Town Council Planning Committee considered the draft Statement of Gambling Principles, January 2019 - January 2022, at a meeting on 22 May 2018 and had no comment to make on the proposed Statement.

Kind regards

REDACTED
Committee Officer
Woodley Town Council
The Oakwood Centre, Headley Road
Woodley, Berkshire, RG5 4JZ

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Hello,

Thank you for your email, we appreciate your interest in our work.

While we do not have the resources available to allow us to personally respond to each Local Authority which contacts us regarding their refreshed Statement of Principles, we have compiled a list of the issues or factors which we think it would be helpful to consider below, more information is available via the [Gambling Commission](#).

The function of the Statement is to reflect locally specific gambling concerns and to reflect the Council's wider strategic objectives. The active use of the Statement is one means by which you can make clear your expectations of gambling operators who have premises in your area. This allows operators to respond to locally specific requirements and adjust their own policies and procedures as required.

- . A helpful first step is to develop a risk map of your local area so that you are aware of both potential and actual risks around gambling venues. A useful explanation of area-based risk-mapping has been developed with Westminster and Manchester City Councils, which gives some guidance on those who may be most vulnerable or at-risk of gambling-related harm. For more information please see www.geofutures.com/research-2/gambling-related-harm-how-local-space-shapes-our-understanding-of-risk/
- . Consider that proposals for new gambling premises which are near hostels or other accommodation or centres catering for vulnerable people, including those with learning difficulties, and those with gambling / alcohol / drug abuse problems, as likely to adversely affect the licensing objectives set out by the Gambling Commission. This is also relevant regarding the proximity to schools, colleges and universities.
- . A detailed local risk assessment at each gambling venue – pertinent to the environment immediately surrounding the premises as well as the wider local area – is a good way to gauge whether the operator and staff teams are fully aware of the challenges present in the local area and can help reassure the Local Licensing Authority that appropriate mitigations are in place.
- . Does the operator have a specific training programme for staff to ensure that they are able to identify children and other vulnerable people, and take appropriate action to ensure they are not able to access the premises or are supported appropriately?
- . Does the operator ensure that there is an adequate number of staff and managers are on the premises at key points throughout the day? This may be particularly relevant for premises situated nearby schools / colleges / universities, and/or pubs, bars and clubs.
- . Consider whether the layout, lighting and fitting out of the premises have been designed so as not to attract children and other vulnerable persons who might be harmed or exploited by gambling.
- . Consider whether any promotional material associated with the premises could encourage the use of the premises by children or young people if they are not legally allowed to do so.

We would suggest that the Local Licensing Authority primarily consider applications from [GamCare Certified operators](#). GamCare Certification is a voluntary process comprising an independent audit assessment of an operator's player protection measures and social responsibility standards, policy and practice. Standards are measured in accordance with the GamCare Player Protection Code of Practice. If you would like more information on how our audit can support Local Licensing Authorities, please contact mike.kenward@gamcare.org.uk

For more information on GamCare training and other services available to local authorities, as well as recommended training for gambling operators, please see the attached brochures.

If there is anything else we can assist with please do let us know.

Kind regards,
Catherine

Catherine Sweet
Head of Marketing and Communications
T: 020 7801 7028
E: catherine.sweet@gamcare.org.uk



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BY EMAIL ONLY

Licensing,
Wokingham Borough Council,
Shute End,
Wokingham,
Berkshire, RG40 1BN.

Please ask for: Richard Taylor
Direct Tel: 01482 590216
Email: rjt@gosschalks.co.uk
Our ref: RJT / MJM / 097505.00005
#GS2001249
Your ref:
Date: 07 June 2018

Dear Sir/Madam,

Re: Gambling Act 2005 Policy Statement Consultation

We act for the Association of British Bookmakers (ABB) and have received instructions to respond on behalf of our client to the current consultation on the Council's review of its gambling policy statement.

The Association of British Bookmakers (ABB) represents over 80% of the high street betting market. Its members include large national operators such as William Hill, Ladbrokes Coral and Paddy Power, as well as almost 100 smaller independent bookmakers.

Please see below for the ABB's response to the Council's current consultation on the draft gambling policy statement.

This response starts by setting out the ABB's approach in areas relevant to the local authority's regulation of betting shop premises, and its commitment to working with local authorities in partnership. The response finishes by highlighting matters within the policy statement which the ABB feels may need to be addressed.

Betting shops have been part of the British high street for over 50 years and ensuring a dialogue with the communities they serve is vital.

The ABB recognises the importance of the gambling policy statement in focusing on the local environment and welcomes the informed approach this will enable operators to take for example, with regard, to the new requirements for local area risk assessments and ensuring the right structures are in place in shops that are appropriate for that area.

Whilst it is important that the gambling policy statement fully reflects the local area, the ABB is also keen to ensure that the statutory requirements placed on operators and local authorities under the Gambling Act 2005 remain clear; this includes mandatory conditions (for instance,

relating to Think 21 policies) and the aim to permit structure. Any duplication or obscuring of these within new processes would be detrimental to the gambling licensing regime. The ABB also believes it is important that the key protections already offered for communities, and clear process (including putting the public on notice) for objections to premises licence applications, continue to be recognised under the new regime.

Any consideration of gambling licensing at the local level should also be considered within the wider context.

- the overall number of betting shops is in decline. The latest Gambling Commission industry statistics show that numbers as of March 2017 were 8,788 - a decline of 349 since March 2014, when there were 9,137 recorded.
- planning law changes introduced in April 2015 have increased the ability of licensing authorities to review applications for new premises, as all new betting shops must now apply for planning permission.
- successive prevalence surveys and health surveys tells us that problem gambling rates in the UK are stable (0.6%) and possibly falling.

Working in partnership with local authorities

The ABB is fully committed to ensuring constructive working relationships exist between betting operators and licensing authorities, and that where problems may arise that they can be dealt with in partnership. The exchange of clear information between councils and betting operators is a key part of this and the opportunity to respond to this consultation is welcomed.

LGA – ABB Betting Partnership Framework

In January 2015 the ABB signed a partnership agreement with the Local Government Association (LGA), developed over a period of months by a specially formed Betting Commission consisting of councillors and betting shop firms, which established a framework designed to encourage more joint working between councils and the industry.

Launching the document Cllr Tony Page, LGA Licensing spokesman, said it demonstrated the *"desire on both sides to increase joint-working in order to try and use existing powers to tackle local concerns, whatever they might be."*

The framework builds on earlier examples of joint working between councils and the industry, for example the Medway Responsible Gambling Partnership which was launched by Medway Council and the ABB in December 2014. The first of its kind in Britain, the voluntary agreement led the way in trialing multi-operator self-exclusion. Lessons learned from this trial paved the way for the national multi-operator self-exclusion scheme now in place across the country. By phoning a free phone number (0800 294 2060) a customer who is concerned they are developing a problem with

their gambling can exclude themselves from betting shops close to where they live, work and socialise. The ABB is working with local authorities to help raise awareness of the scheme, which is widely promoted within betting shops.

The national scheme was first trialed in Glasgow in partnership with Glasgow City Council. Cllr Paul Rooney, Glasgow's City Treasurer and Chairman of a cross-party Sounding Board on gambling, described the project as "*breaking new ground in terms of the industry sharing information, both between operators and, crucially, with their regulator.*"

Primary Authority Partnerships in place between the ABB and local authorities

All major operators, and the ABB on behalf of independent members, have also established Primary Authority Partnerships with local authorities. These partnerships help provide a consistent approach to regulation by local authorities, within the areas covered by the partnership; such as age-verification or health and safety. We believe this level of consistency is beneficial both for local authorities and for operators.

For instance, Primary Authority Partnerships between Milton Keynes Council and Reading Council and their respective partners, Ladbrokes and Paddy Power, led to the first Primary Authority inspection plans for gambling coming into effect in January 2015. By creating largely uniform plans, and requiring enforcing officers to inform the relevant Primary Authority before conducting a proactive test-purchase, and provide feedback afterwards, the plans have been able to bring consistency to proactive test-purchasing whilst allowing the Primary Authorities to help the businesses prevent underage gambling on their premises.

Local area risk assessments

Since April 2016, under new Gambling Commission LCCP provisions, operators have been required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated. Licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy, and any local area profile, in their risk assessment. These must be reviewed where there are significant local changes or changes to the premises, or when applying for a variation to or for a new premises licence.

The ABB fully supports the implementation of risk assessments which will take into account risks presented in the local area, such as exposure to vulnerable groups and crime. The new requirements build on measures the industry has already introduced through the ABB Responsible Gambling Code to better identify problem gamblers and to encourage all customers to gamble responsibly.

This includes training for shop staff on how to intervene and direct problem gamblers to support services, as well as new rules on advertising including banning gaming machine advertising in shop windows, and the introduction of Player Awareness Systems which use technology to track

account based gaming machine customers' player history data to allow earlier intervention with any customers whose data displays known 'markers of harm'.

Best practice

The ABB is committed to working pro-actively with local authorities to help drive the development of best practice with regard to local area risk assessments, both through responses to consultations such as this and directly with local authorities. Both the ABB and its members are open and willing to engage with any local authority with questions or concerns relating to the risk assessment process, and would encourage them to make contact.

Westminster Council is one local authority which entered into early dialogue with the industry, leading to the development of and consultation on draft guidance on the risk assessment process, which the ABB and our members contributed to. Most recently one operator, Coral, has been working closely with the Council ahead of it issuing its final version of the guidance, which we welcome.

The final guidance includes a recommended template for the local area risk assessment which we would point to as a good example of what should be expected to be covered in an operator's risk assessment. It is not feasible for national operators to submit bespoke risk assessments to each of the c.350 local authorities they each deal with, and all operators have been working to ensure that their templates can meet the requirements set out by all individual local authorities.

The ABB would be concerned should any local authority seek to prescribe the form of an operator's risk assessment. This would not be in line with better regulation principles. Operators must remain free to shape their risk assessment in whichever way best meets their operational processes.

The ABB has also shared recommendations of best practice with its smaller independent members, who although they deal with fewer different local authorities, have less resource to devote to developing their approach to the new assessments. In this way we hope to encourage a consistent application of the new rules by operators which will benefit both them and local authorities.

Concerns around increases in the regulatory burden on operators

The ABB is concerned to ensure that any changes in the licensing regime at a local level are implemented in a proportionate manner. This would include if any local authority were to set out overly onerous requirements on operators to review their local risk assessments with unnecessary frequency, as this could be damaging. As set out in the LCCP a review should only be required in response to significant local or premises change. In the ABB's view this should be where evidence can be provided to demonstrate that the change could impact the premises' ability to operate consistently with the three licensing objectives.

Any increase in the regulatory burden would severely impact ABB members at a time when overall shop numbers are in decline, and operators are continuing to absorb the impacts of significant recent regulatory change. This includes the increase to 25% of Machine Games Duty, limits to staking over £50 on gaming machines, and planning use class changes which require all new betting shops in England to apply for planning permission.

Employing additional licence conditions

It should continue to be the case that additional conditions are only imposed in exceptional circumstances where there are clear reasons for doing so. There are already mandatory and default conditions attached to any premises licence which will ensure operation that is consistent with the licensing objectives. In the vast majority of cases, these will not need to be supplemented by additional conditions.

The LCCP require that premises operate an age verification policy. The industry operates a policy called "Think 21". This policy is successful in preventing under-age gambling. Independent test purchasing carried out by operators and the ABB, and submitted to the Gambling Commission, shows that ID challenge rates are consistently around 85%. The ABB has seen statements of principles requiring the operation of Challenge 25. Unless there is clear evidence of a need to deviate from the industry standard then conditions requiring an alternative age verification policy should not be imposed.

The ABB is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statement as to the need for evidence. If additional licence conditions are more commonly applied this would increase variation across licensing authorities and create uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities

Other concerns

Where a local area profile is produced by the licensing authority, this be made clearly available within the body of the licensing policy statement, where it will be easily accessible by the operator and also available for consultation whenever the policy statement is reviewed.

Considerations specific to the Draft Statement of Gambling Principles January 2019 to January 2022

On behalf of the ABB, we welcome the light touch approach to the draft Statement of Gambling Principles. We have very few comments to make. The comments that we do have are below.

a) References to Gambling Commission Guidance to Licensing Authorities.

There are a number of references to the Gambling Commission Guidance within the draft Statement of Gambling Principles. In the second paragraph to paragraph 1 (ii) in part B, there is a reference to the third edition of the Guidance to Licensing Authorities and a quote from that third edition. These quotes need to be updated. The most recent addition of this Guidance is the fifth edition (September 2015) with updates dated September 2016. The quote given in paragraph 1(ii) is now found in paragraphs 7.6 and 7.7. of the fifth edition of the Guidance although the wording is slightly different. Similarly, there are references to the Gambling Commission Guidance in paragraph 1(v) which refers to paragraph 7.59 and 7.66. The reference to paragraphs 7.59 needs to be amended as this is now paragraph 7.58 in the most recent edition of the Guidance. The wording of that paragraph is now slightly different.

The reference to paragraph 7.66 of the Guidance needs to be amended as this no longer exists in the current Guidance. This is now paragraph 7.65.

b) Part B (1)(iv) Location.

This paragraph suggests that the Licensing Authority may implement a policy that there may be specific areas where gambling premises should not be located. This reference should be amended/deleted as any such policy is likely to be unlawful and is certainly contrary to the overriding principle that the Licensing Authority should aim to permit the use of premises for gambling. On the basis that the following sentence indicates that any such policy would not preclude an application being made or determined on its own merits then we suggest that the reference to the policy simply be deleted.

c) Conditions.

The draft Statement of Gambling Principles would be assisted by a clear statement that all premises licenses issued are subject to mandatory and default conditions and that these conditions are usually sufficient to ensure operation that is reasonably consistent with the licensing objectives. The draft Statement of Principles should make it clear that additional conditions will only be imposed where there is evidence of a need to supplement these conditions in the circumstances of a particular case. The evidential basis of the imposition of conditions is important and conditions should not be imposed simply where there is a “perceived need” (page 17) or where it is “believed to be appropriate” (page 12).

d) Betting Premises/Betting Machines.

The draft Statement of Principles indicate that the Licensing Authority has the ability to limit the number of betting machines that an operator wants to offer. The draft Statement of Principles would be assisted if a clear distinction could be made between betting machines (where there is

the ability to limit numbers) and gaming machines where the Licensing Authority has no such ability to limit numbers. By virtue of Section 172(8) Gambling Act 2005 a betting premises licence authorizes the holder to make up to 4 gaming machines of categories B, C or D available for use.

Conclusion

The ABB and its members are committed to working closely with both the Gambling Commission and local authorities to continually drive up standards in regulatory compliance in support of the three licensing objectives: to keep crime out of gambling, ensure that gambling is conducted in a fair and open way, and to protect the vulnerable.

Indeed, as set out, the ABB and its members already do this successfully in partnership with local authorities now. This includes through the ABB Responsible Gambling Code, which is mandatory for all members, and the Safe Bet Alliance (SBA), which sets voluntary standards across the industry to make shops safer for customers and staff.

We would encourage local authorities to engage with us as we continue to develop both these codes of practice, which are in direct support of the licensing objectives, as well as our processes around local area risk assessments.

Yours faithfully,



GOSSCHALKS

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TITLE	Sub-Committee Procedure
FOR CONSIDERATION BY	Licensing and Appeals Committee 27 June 2018
WARD	Non-specific
DIRECTOR	Sean Murphy - Public Protection Manager

OUTCOME / BENEFITS TO THE COMMUNITY

The Council's Licensing Sub-Committee procedure has not been reviewed in some time. A clear, consistent procedure is necessary to ensure the principles of a fair hearing are followed to reduce the risk of successful challenges against decisions, and to ensure that hearings proceed in an efficient manner.

RECOMMENDATION

That the Committee approves the Information and Procedure document at Annex A

SUMMARY OF REPORT

This report sets out a draft revised sub-committee information and procedure document for hearings of matters under the Licensing Act 2003, for discussion and approval.

Background

The Council's Licensing Sub-Committee will determine any applications made under the Licensing Act 2003 where relevant representations have been received or objection notices in respect of standard temporary event notices, in line with the delegations laid out in the Council's Licensing Policy.

The document at Annex A has been created using content from the existing Bracknell Forest and Wokingham procedures. Once approved, it will be taken to the Licensing Committees in Bracknell Forest and West Berkshire to consider adoption.

The document seeks to outline the requirements for the hearing, the procedure for the hearing itself, the roles of those present and the general information for licensing members at hearings. The plan is to develop a separate procedure for taxi and street trader hearings along the same lines.

Analysis of Issues

A clear, consistent procedure is necessary to ensure the principles of a fair hearing are followed to reduce the risk of successful challenges against decisions, and to ensure that hearings proceed in an efficient manner.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	No impact	N/A	N/A
Next Financial Year (Year 2)	No impact	N/A	N/A
Following Financial Year (Year 3)	No impact	N/A	N/A

Other financial information relevant to the Recommendation/Decision

None

Cross-Council Implications

There are no implications arising from the recommendation in this report.

List of Background Papers

None

Contact Laura Driscoll	Service Public Protection Partnership
Telephone No 01344 352517	Email laura.driscoll@westberks.gov.uk
Date 12 June 2018	Version No. 1.2

INFORMATION AND THE PROCEDURE FOR HEARINGS OF THE LICENSING SUB-COMMITTEE (LICENSING ACT 2003)

The following document provides information and outlines the procedure taken for hearings of the Licensing Sub-Committee in respect of matters under the Licensing Act 2003.

1. REQUIREMENTS FOR THE HEARING

- 1.1 The applicant will normally be required to attend the meeting in person. They will be entitled to be represented by a solicitor or counsel or by any other individual provided that the name of any such person is given to Democratic Services two clear working days in advance of the hearing.
- 1.2 The Sub-Committee will be selected by Democratic Services, taking into account the following criteria:
 - a) Current Member of the Licensing and Appeals Committee
 - b) Any identified mandatory training on licensing matters completed
 - c) Availability for the chosen meeting time and date
 - d) Premises should not be within Member's ward
 - e) Applicant should not reside within Member's ward
 - f) No other relevant conflict of interest
 - g) Cross-party representation
- 1.3 Written notification of the intended proceedings will be given to the applicant not less than ten clear working days before the meeting. This notification will give details of the procedure to be followed at the hearing and shall advise applicants of their right to be represented. Included with the written notification shall be the Agenda for the meeting.
- 1.4 Any documents to be produced at the hearing by any party shall be sent so as to reach all other parties by no later than two clear working days before the hearing. A copy of these documents shall at the same time be given to Democratic Services to distribute to members of the Sub-Committee.
- 1.5 At the discretion of the Sub-Committee any or all of the requirements set out in paragraphs 1.3 to 1.4 above may be waived, provided that the Sub-Committee is satisfied that the interests of the applicant or any party to the hearing have not been prejudiced.
- 1.6 Financial costs incurred by either party in the hearing must be met in full by those parties and no awards for costs will be made to either party regardless of the outcome of the hearing.
- 1.7 The public will be allowed access, except if "Confidential Information" as defined by Section 100A of the Local Government Act 1972 is likely to be disclosed (in which case the public must be excluded) or, if "Exempt Information" falling within Schedule 12A of the Local Government Act 1972 is likely to be disclosed in which case the Sub-Committee may decide to exclude the public.

1.8 References to 'applicant' within this document also include the licence holder in relevant cases, such as premises licence review hearings.

2. ORDER OF THE HEARING

2.1 Firstly, the three members of the Sub-Committee shall elect a Chairman for the hearing.

2.2 The hearing shall then be conducted as follows:

- a) The Chairman will open the proceedings by stating the nature of the matter which is to be considered and will welcome the parties, introduce them and confirm the roles of those present.
- b) The Chairman will ask the Sub-Committee if they have any interests to declare. The Chairman will then ask the officers to confirm whether or not the formal requirements in respect of the matter to be considered have been complied with.
- c) The Chairman shall outline the procedure and reaffirm that only information relevant to representations can be considered and that such information must be relevant to the Licensing Objectives, namely:
 - The Prevention of Crime and Disorder;
 - Public Safety;
 - The Prevention of Public Nuisance; and
 - The Protection of Children from Harm.

Chairman to confirm that all parties understand this.

- d) The applicant will be asked if there is any reason for the case to be adjourned. An adjournment will only normally be granted if unforeseeable circumstances can be demonstrated which would be prejudicial to a fair hearing if it was heard at that time.
- e) The Chairman shall first call upon the Licensing Team representative to put forward their case. They will introduce the report and confirm any developments following publication of the report as required.
- f) The Sub-Committee may ask the Licensing Team representative for clarification of any points.
- g) The applicant shall have an opportunity to put questions to the Licensing Team representative.
- h) The Chairman will then invite any Responsible Authorities or other persons who have made representations to speak. In order to facilitate effective hearings, other persons making similar representations will be asked to nominate a spokesman to present their representations. At the conclusion of a spokesman's representation, the Chairman will ask the other persons if they have any other points to raise.

- i) The Sub-Committee may ask the Responsible Authorities or other persons questions and points of clarification.
- j) The applicant shall have an opportunity to put questions to those who have made representations if permitted to do so by the Sub-Committee, or they may respond to the comments made when summing up their case.
- k) Questions by the Sub-Committee and, when permitted, by the applicant, will be directed to the nominated spokesman in the first instance.
- l) The Chairman will then invite the applicant or licence holder to make any representations.
- m) The Chairman, members of the Sub-Committee and the Licensing Team representative may ask the applicant questions and points of clarification.
- n) Any Responsible Authorities or other persons who have made representations shall have an opportunity to put questions to the applicant if permitted to do so by the Sub-Committee, or they may respond to the comments made when summing up their case.
- o) An opportunity shall be given to all parties present to sum up their case (but not to add any new facts), in the same order as above.
- p) After hearing the application and all representations, the Sub-Committee will ask any further questions of any party that it may have.
- q) All parties other than the Sub-Committee and support staff from Wokingham Borough Council's Legal and Democratic Services team shall be asked to leave the hearing. Officers present do not take part in the decision making but will provide legal and procedural advice and record the decision.

2.3 The Sub-Committee shall determine the application. The decision will be notified in writing within 5 working days to all parties after the Sub-Committee has reached its decision.

3. ROLES OF THOSE AT THE HEARING

3.1 The Licensing Team representative is present at the hearing to present the details of the application to be considered, including any case for refusal, suspension or revocation of licences. They are also present to challenge points put forward by the applicant.

3.2 Members of the Sub-Committee are present to consider and determine an application or to consider if a licence should be suspended or revoked. In doing so they will follow the above procedure.

3.3 The representative from Legal Services is present to provide legal and procedural advice to the members of the Sub-Committee and to assist in the clarification of any issues which might arise.

3.4 The representative from Democratic Services is present to provide procedural advice to members of the Sub-Committee and to record the decision.

4. BACKGROUND

4.1 The Council's Licensing Sub-Committee will determine any applications where relevant representations have been received or objection notices in respect of standard temporary event notices, in line with the delegations laid out in the Council's Licensing Policy.

4.2 In carrying out its licensing function, the Licensing Authority will consider:

- a) the case and evidence presented by all parties;
- b) the promotion of the four licensing objectives;
- c) guidance issued by central Government; and
- d) the Licensing Authority's own Statement of Licensing Policy.

and will take such of the following steps as it considers appropriate for the promotion of the licensing objectives. The options shall be outlined within the officer's report.

4.3 If it is reasonably considered that the licensing objectives cannot be met unless additional specific conditions are attached, then the Licensing Authority may consider attaching those which are appropriate for the promotion of the licensing objectives, proportionate to the individual style and characteristics of the event or premises concerned.

4.4 Where an application is refused or a licence is suspended or revoked by the Sub-Committee, the applicant may have a right of appeal to the courts under the relevant provisions of the legislation and the Sub-Committee will inform the applicant within their decision letter.

TITLE	Licensing Committee Forward Plan
FOR CONSIDERATION BY	Licensing and Appeals Committee 27 June 2018
WARD	Non-specific
DIRECTOR	Sean Murphy - Public Protection Manager

OUTCOME / BENEFITS TO THE COMMUNITY
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Not applicable

RECOMMENDATION

That the Committee notes the report, and provides comments to the Chairman on both the list below and any further items they would like to see considered at forthcoming Committee meetings

SUMMARY OF REPORT

This report sets out the forward plan for the next Committee meeting on 11 September.

Background

Matters currently on the list to be considered for the next meeting of this Committee on 11 September 2018 are as follows:

- Licensing Act 2003 – final approval of the revised licensing policy prior to adoption by Council on 20 September 2018
- Gambling Act 2005 – final approval of the revised Statement of Gambling Principles prior to adoption by Council on 22 November 2018
- Fees and charges – information on the fees and charges recommended by the Public Protection Partnership for adoption by the Council
- Annual report - activities carried out by the Licensing Service of the Public Protection Partnership in Wokingham borough from April 2017 to March 2018.
- Street trading conditions – plus consideration of introduction of a formal policy
- Driver policy – to amend this to remove the ban on drivers holding a licence in more than one area (as this is contrary to Competition and Markets Authority advice)

The next two meetings after September are 13 November 2018 and 19 March 2019.

Analysis of Issues

There are no implications arising from the recommendation in this report.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	No impact	N/A	N/A
Next Financial Year (Year 2)	No impact	N/A	N/A
Following Financial Year (Year 3)	No impact	N/A	N/A

Other financial information relevant to the Recommendation/Decision

None

Cross-Council Implications

There are no implications arising from the recommendation in this report.

List of Background Papers

None

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