

Notice of Meeting

Licensing Committee

Tuesday, 21st December, 2010 at 6.30pm
in Council Chamber Council Offices
Market Street Newbury

Date of despatch of Agenda: Monday, 13 December 2010

For further information about this Agenda, or to inspect any background documents referred to in Part I reports, please contact Jessica Broom on (01635) 519591
e-mail: jbroom@westberks.gov.uk

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Agenda - Licensing Committee to be held on Tuesday, 21 December 2010 (continued)

To: Councillors Peter Argyle, Jeff Beck (Chairman), Paul Bryant, Billy Drummond, Adrian Edwards, Geoff Findlay, Manohar Gopal, Roger Hunneman, Tony Linden, Mollie Lock, Gwen Mason (Vice-Chairman), Andrew Rowles, Ieuan Tuck and Quentin Webb

Agenda

Part I

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1. Apologies To receive apologies for inability to attend the meeting (if any).	
2. Minutes To approve as a correct record the Minutes of the meeting of this Committee held on 13 th September 2010.	1 - 12
3. Declarations of Interest To receive any Declarations of Interest from Members.	
4. Taxi Licensing <i>Purpose:</i> To report back to the Committee following the consultation regarding in principle decision taken at the Committee meeting on 13 th September 2010.	13 - 20
5. Hackney Carriage and Private Hire Driver Licences <i>Purpose:</i> To consider the amalgamation of the hackney carriage and private hire driver's license.	21 - 26
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7. Sex Establishments <i>Purpose:</i> To consider the adoption of Section 27 of the Policing and Crime Act 2009.	53 - 60
8. Street Trading Consent <i>Purpose:</i> To consider updating the Council's Street Trading Consent Policy and Authorisation.	61 - 66

Andy Day
Head of Policy and Communication



Agenda - Licensing Committee to be held on Tuesday, 21 December 2010 *(continued)*

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Note: These Minutes will remain DRAFT until approved at the next meeting of the Committee

LICENSING COMMITTEE

MINUTES OF THE MEETING HELD ON MONDAY, 13 SEPTEMBER 2010

Councillors Present: Peter Argyle, Jeff Beck (Chairman), Paul Bryant, Adrian Edwards, Roger Hunneman, Tony Linden, Mollie Lock, Gwen Mason (Vice-Chairman), Andrew Rowles, Ieuan Tuck and Quentin Webb

Also Present: Paul Anstey (Environmental Health & Licensing Manager), Alison Church (Solicitor) and Brian Leahy (Senior Licensing Officer), Jessica Broom (Principal Policy Officer).

Apologies for inability to attend the meeting: Councillor Billy Drummond, Councillor Geoff Findlay and Councillor Manohar Gopal

Councillor(s) Absent:

PART I

7. Minutes

The minutes of the meeting of the 30th March 2010 were signed as a true and accurate record of the meeting, subject to the following amendments:

- **Page 6; Item 18 5th paragraph**:- ‘...an increase in fare for 2009/10 **as** they had....’
- **Page 6; Item 18 8th paragraph**: - ‘...be disproportionately bourne...’
- Councillor Linden would be referred to as ‘Chairman’ not ‘Chair’ of this meeting.
- **Page 7; Item 19 3rd paragraph** – That it be noted that Councillor Andrew Rowles had not attended his licensing training as had been stated at the meeting.

The minutes of the special meeting of the 25th May 2010 were signed as a true and accurate record of the meeting.

8. Declarations of Interest

Councillor Gwen Mason stated that she was a member of the West Berkshire Disability Alliance, but it was not considered that this was either a personal or prejudiced interest to any items on the agenda.

9. Hackney Carriage Licensing

Councillor Jeff Beck gave an introduction to the Committee on the item. These were issues that had been brought forward from the meeting of the Committee on 30th March 2010 together with recommendations from the working group which had been set up to address these, were included in the report. It was proposed that there should be a consultation period to consult with all license holders over a 12 week period. Also, that there would be a survey to establish the basic demand for taxi services in West Berkshire.

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Councillor Jeff Beck stated that representations had been received from the Chairman of West Berkshire Hackney and Private Hire Association and the Disability Alliance who wished to address the Committee. A submission had also been received from Dolphin Taxis which would be circulated at the meeting.

In accordance with paragraph 7.12.14 of the Council's Constitution, the Chairman suspended standing orders to allow members of the trade to participate in the discussion.

A representative of the Trade, Mr Andrew Lutter, Chairman of West Berkshire Hackney and Private Hire Association, requested that the recommendations and discussion by the Committee were heard first in order that he could respond.

The Chairman reinstated standing orders.

Brian Leahy gave an introduction to the report stating that the working group had received and heard submissions from the Trade and produced a number of recommendations as detailed in the report. A number of these recommendations would need to be decided by the Committee 'in principle', as they would have to be ratified following the consultation process.

Councillor Jeff Beck asked the Committee whether they would like to hear the representations from the Trade and Disability Alliance before going through the recommendations of the working group or to hear the recommendations first. Councillor Gwen Mason stated that she would like to hear what the Trade had to say, before looking into the recommendations.

Councillor Quentin Webb asked what the impact would be of not carrying out a demand survey. Paul Anstey stated that there was nothing in law to direct the Council to undertake a survey, however, it was recommended by relevant government departments to do so and the Council was already several years in excess of the recommended time frame. If there was a challenge, to a Council decision which impacted upon the Taxi Trade, the risk of that decision being overturned would be increased due to the length of time since the last survey was carried out.

Councillor Quentin Webb asked whether or not the Council's website could be used for such a survey and Paul Anstey stated that this would not normally be sufficient and that the methodologies being considered would be more thorough. He did say it would be possible to do this but any deficiencies would result in an increased risk to Council decisions. It was the officers' opinion that the survey would provide a sound platform upon which to base decisions and ensure the widest consultation possible.

Councillor Adrian Edwards asked for clarification regarding the difference between 'direction' and 'guidance'. Alison Church stated that two separate government bodies recommended that this survey be carried out but that there was no obligation upon the Council to do so, however, it was recommended.

In accordance with paragraph 7.12.14 of the Council's Constitution, the Chairman suspended standing orders to allow members of the trade to participate in the discussion.

Mr Andrew Lutter, representing West Berkshire Hackney and Private Hire Association, addressed the Committee. Mr Lutter had raised a number of issues, however he was

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pleased with the Trade Liaison Meetings that had now been scheduled. He urged the Committee not to rush into making decisions as it was important to maintain dialogue with the Trade. He believed that the Liaison Meetings were the way forward to start working these issues out.

Councillor Paul Bryant asked Mr Lutter how he felt about the potential costs of a survey being partially borne by the Trade at a possible £45.00 each. Mr Lutter stated that his colleague would answer this shortly.

Kevin Archibald of CABCO addressed the Committee. Mr Archibald thanked the members of the Committee and the Working Party for the time spent with the Trade on these issues. The last survey was carried out in 2000. He was neither for nor against a further survey being done. He asked, however, if it was decided by the Committee that this should be done, then there should be discussions with the Trade once the findings had been received. He stated that following the last survey many of the results had been ignored, and the Trade had made recommendations which had also not been taken into account. For example the last survey highlighted issues around deregulation, disabled access and licensing for saloon cars.

Mr Archibald quoted from a section of the survey results regarding disability issues, upon which no action had been taken. He stated that he would welcome a survey, although the costings were still to be worked out, but that he would expect the findings to be implemented.

Councillor Gwen Mason stated that she believed that if a survey was carried out, there should also be consultation with the Trade.

Mr Archibald stated that they were experts in the Trade and wanted to protect their businesses and enable them to flourish, their recommendations were for the benefits of all their customers. They wanted the best for their customers, as that would be reflected in improved business.

Councillor Quentin Webb queried whether the costs of a survey should be over a 1,2 or 3 year period. Mr Archibald stated that 3 years would mean the least impact, so they would be in favour of that.

Mick Hutchings, Chairman of the West Berkshire Disability Alliance (WBDA) addressed the Committee. He had been involved in disability access to taxis since 2003/4 and he wanted to be involved in any discussion or Liaison Meeting, if there were issues relevant to the Alliance.

He understood that there had always been a mixed fleet of 50/50 disabled access and other vehicles. WBDA had taken the view that The West Berkshire Taxi (Hackney Carriage) fleet should have at least 50% of its total vehicles fully accessible i.e. wheelchair accessible. WBDA had never supported the view that because a saloon car has a swivel seat attached, it was deemed 'an accessible vehicle'. WBDA's position was that 50% of the West Berkshire taxi fleet should be fully wheelchair accessible and wanted to see vehicles with swivel seats being considered part of the 50% of vehicles not deemed wheelchair accessible.

Also, wheelchairs had become larger and therefore this might need to be taken into account in future recommendations. There were a number of other issues that they would

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like to be taken into consideration and these had been set out in an email. He would also like to see every driver trained in disability issues as well in the future.

Councillor Gwen Mason questioned whether or not there were alternatives to the ramps that were used for wheelchairs. Mr Hutchings said that these had been recommended to the Trade and they could argue the point for other equipment, however they could not recommend anything as these had been deemed fit for purpose.

The Chairman reinstated standing orders.

Brian Leahy went through the report and each of the recommendations made by the working group, so that the Committee could make a decision on each.

The recommendation at 3.1 was that all drivers should be trained to Driving Standards Agency Standard with the exception of the 'Z' module on disability training, which would be carried out in house and had been endorsed by the Disability Alliance and the Trade.

The recommendation at 3.2 was that this standard should be achieved within a 3 year period. This would be subject to the consultation with all licence holders. Councillor Jeff Beck stated that this decision would be ratified at the meeting of the Licensing Committee in December 2010 once the findings of the consultation had been considered.

Councillor Quentin Webb queried whether or not these decisions could be delayed until after the survey had been carried out. Councillor Jeff Beck clarified that the Consultation and the survey would fall within a 12 week period. Brian Leahy said that the survey would not look at training issues.

In response to questions from Councillor Paul Bryant, Brian Leahy stated that the cost of the current 'knowledge test' for new drivers was around £64.00. The Driving Standards Agency test would cost £48.00, so there would be a saving to new drivers. Richard Brown, who had provided a submission to the Committee, was in favour of this new test.

Councillor Tony Linden proposed that the Committee accept this recommendation and go with the new Driving Standards Agency test. Councillor Gwen Mason seconded this and the Committee voted unanimously in favour of accepting recommendations at 3.1 and 3.2 in principle.

The recommendation at 3.3 related to the frequency of vehicle testing. There was no change proposed from what was currently undertaken, but if an age limit of 8 years was imposed on a vehicle, the requirement for the last test would not be needed. The Trade was in agreement with the proposed frequency of testing.

In response to questions from Members of the Committee, Brian Leahy clarified that:

- Other Local Authorities varied on imposing an upper age limit on vehicles. Some were 8 years, some 10 years and some had no limit.
- West Berkshire did not currently have an upper limit, although some members of the Trade had requested that one be imposed.
- Private hire for weddings and funerals were exempt from requiring a license.
- Recommendations in this report related only to Hackney Carriages, with the exception of training.

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Councillor Peter Argyle stated that he regarded the costs for these vehicles to be considerable and if they were in a good condition, why should an age limit be placed on them.

Brian Leahy stated that at 3.6, the recommendation (that was from the Trade) was to place a limit on the age of vehicles; however the suggested third test in 3.3 would be null and void if this was agreed. The current question was regarding the frequency of testing.

Following questioning from Councillor Paul Bryant, Brian Leahy agreed that the word 'Test' would be applied consistently to avoid confusion.

Councillor Tony Linden proposed that the Committee accept the proposed frequency of testing in 3.3 and Councillor Peter Argyle seconded this. The Committee voted unanimously in favour.

The recommendation at 3.4, was that the current 'Halfway Garage or Council' inspection be replaced with an inspection which consisted of a standard MOT. This was a decision that could be made in full at this meeting of the Committee. Brian Leahy explained that the Trade were dissatisfied with the Halfway Garage. This would mean that vehicles would need to have a standard MOT as well as an equivalent test.

In response to a question from Councillor Quentin Webb, Brian Leahy explained that there was a big difference between the inspections, in that the Halfway Test was a much more stringent test.

In accordance with paragraph 7.12.14 of the Council's Constitution, the Chairman suspended standing orders to allow members of the trade to participate in the discussion

Mr Andrew Lutter informed the Committee that he had put his vehicle in for an MOT and the Halfway Test at the same time and this had cancelled his previous MOT, as it had identified a problem. The Trade supported the MOT testing.

The Chairman reinstated standing orders.

Councillor Tony Linden proposed that the Committee accept the recommendation at 3.4, Councillor Quentin Webb seconded this and the Committee voted unanimously in favour.

Recommendations at 3.4.1 through to 3.4.1.2 were considered together. The options were that the officers carry out the cosmetic test at the Council Offices before the licence was issued. This would entail a financial implication to the service. Alternatively, it would be written into the contract for the MOT test, that this should include the cosmetic part of the test.

In response to questions from Councillors Paul Bryant and Peter Argyle, Brian Leahy and Paul Anstey clarified that it would take around 15 minutes of officer time to administer the cosmetic test and there were just under 200 vehicles to test. The work that the team carried out was based on risk to the Authority and in controlling these risks work would be prioritised accordingly. Therefore any new demands on the team could result in other areas of work being reduced. There might be an option to charge for this work, but it was not put forward in the recommendations. Councillor Jeff Beck stated that carrying out the tests would not be the only demand on officer time, there would be an associated administration that should be taken in to consideration.

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Councillor Roger Hunneman stated that he was in favour of the equivalent test to the standard MOT and that if contracted to a garage, it should be standardised,

In accordance with paragraph 7.12.14 of the Council's Constitution, the Chairman suspended standing orders to allow members of the trade to participate in the discussion

A representative of the Trade, Ashley Vass, stated that his inspection had taken 8 minutes and the he had not been satisfied with it, which is why this recommendation had been put forward. Another representative of the Trade stated his inspection had taken 1hr 20 minutes as it was a very old taxi, so the times varied.

Mr Rodney Nemeth from CABCO clarified for the Committee, that there was an MOT test and then the separate cosmetic test which checked issues such as tearing of the seat covers, windows not working properly, if there is a first aid kit, for example. They were asking that the contractor carried out the equivalent MOT test along with the cosmetic test. A further representative of the Trade stated that they had taken cars to the garage for the cosmetic test and the car had then failed the MOT test and therefore needed to be upgraded.

In response to questioning from Councillor Jeff Beck, the Trade confirmed that they were in favour of the cosmetic test being incorporated with the MOT and not being carried out separately by officers at the council.

The Chairman reinstated standing orders.

Councillor Quentin Webb queried whether or not, it would be up to the Trade on which garage they could go to. Brian Leahy stated this would be a matter for further consideration. The last time they went to tender, Halfway Garage was the only viable option. If there were six companies that were interested, for example, which all met the specification, then there would be a choice of how many and who to go for. They would discuss what would be appropriate with the Trade. Paul Anstey stated that the Trade would probably wish to have some flexibility in who they could go to for the test, and they would see how much trade there would be for example, to take on three garages. In response to a further question from Councillor Quentin Webb, Paul Anstey confirmed that there could be a clause in the contract to dismiss the garage should inspections not be up to standard. Brian Leahy added that there had been a £30 range in costs last time, so they would need to include the trade in decisions. They wanted to have tender documents drawn up by the early part of 2011, so that contracts could be in place by 1st July 2011.

Councillor Roger Hunneman proposed that the recommendations be accepted and Councillor Tony Linden seconded. The Committee voted unanimously to accept the recommendations in 3.4.1 to 3.4.1.2.

The recommendation at 3.5 was a decision which could be made at this meeting of the Committee. This was to re-introduce the measured-mile. A garage carrying out an MOT would also test the meter, i.e. to run it for a mile and therefore determine the correct meter settings, which helped prevent meter tampering. Very few Local Authorities did not currently do this.

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Councillor Quentin Webb proposed this recommendation be approved and Councillor Peter Argyle seconded. The Committee voted unanimously in favour of this proposal.

The recommendation at 3.6 was that all taxis be accepted for 1st licenses, up to the age of 3 years of age.

Councillor Peter Argyle stated that he thought that any vehicle irrespective of age should be allowed to be licensed, if it was in good condition. Councillor Roger Hunneman supported this, saying he saw no reason to outlaw 8 year old vehicles. Councillor Adrian Edwards said that vehicles were generally more safe now than they were ten years ago, and this should be taken into account. Councillor Paul Bryant agreed - there was no evidence presented that older vehicles should not be allowed a license.

Brian Leahy clarified that at the present time, they would license any vehicle; this recommendation was put forward in response to a suggestion from some of the Trade who wanted an age policy to be implemented. He pointed to appendix B for the rationale for this suggestion.

In accordance with paragraph 7.12.14 of the Council's Constitution, the Chairman suspended standing orders to allow members of the trade to participate in the discussion

Representatives from the Trade made the following points to the Committee:

- That many taxis were bought second hand, as they were so expensive;
- Any licence now had to be wheelchair accessible;
- The restriction this recommendation would place on them would be unreasonable;
- They would expect to spend more money maintaining a vehicle than they would on buying one;
- If a vehicle was fit for purpose, it should be licensable;
- One member stated he had a 10 year old car and if this was brought in, it would him redundant;
- They felt the 8 year age limit was out of the question, but the 3-4 years, or even 5 year age for a new vehicle would be reasonable and that 5 years would be preferable.

The Chairman reinstated standing orders

Brian Leahy re-stated the decision to be made for the Committee. Currently vehicles were required to be fit for purpose and in a good mechanical state. When the new contract would be in place, they would be required to be in a good condition. In London there were 15 year old vehicles still in operation. Brian Leahy clarified that the recommendation had been put forward in response to a request from the Trade, but that this was in opposition to the views expressed at this Committee meeting by the Trade representatives.

Councillor Jeff Beck proposed that the Committee should not accept the recommendation and that 3.6 should be rejected. The Committee agreed unanimously.

Councillor Jeff Beck proposed that the Committee should agree new vehicles should be able to obtain a licence up to 5 years of age for new licenses, but with no upper age limit. Councillor Andrew Rowles seconded this and the Committee voted in favour of the revised proposal.

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The recommendation at 3.7 made the current condition more formal. All wheelchair accessible vehicles would only be accepted if any conversion was documented. A full specification document would be put together and only those complying with the Disabled Persons Transport Advisory Committee (DPTAC) standard would be accepted.

Councillor Tony Linden proposed that the Committee accept this recommendation and Councillor Adrian Edwards seconded this. The Committee voted unanimously in favour.

The proposal at 3.8 concerned the Consultation which would be undertaken in a 12 week period. It was the officers' recommendation that this be carried out, making use of the Council's *Consultation Finder* on the website.

Councillor Paul Bryant proposed that the Committee accept this recommendation and Councillor Adrian Edwards seconded this. The Committee voted unanimously in favour.

The proposal at 3.9 concerned the demand survey. This had not been carried out since 2000 and increased the risk of Council decisions being challenged successfully. As part of the survey, assessors would look at taxis use of ranks across the District as well as interviewing the public, The Disability Alliance and the Trade.

Councillor Jeff Beck clarified that the consultation would take a full 12 week period and the demand survey would take place during this time. The results of both would come together to the Committee meeting in December, and it was noted that the discussions would be carried out with the Trade, once results were available and before recommendations were made.

Councillor Paul Bryant questioned whether or not the survey was being carried out because there was useful information that could be found out, or simply for protection against any legal challenge.

Councillor Jeff Beck stated that this was an exercise to find out what the public wanted from a taxi service in West Berkshire, the protection element was a secondary outcome. If the Trade also had an input in the process, this could produce some real benefits for West Berkshire residents. Councillor Roger Hunneman agreed with this, stating that there had been some good ideas put forward and it would be interesting to see if there was real demand for schemes such as Group Hire (as suggested in Mr Castle's submission).

Councillor Mollie Lock requested and was given confirmation that this survey would apply to the whole of West Berkshire District, and not just the urban areas of the District.

Councillor Gwen Mason proposed that this recommendation be accepted and the costs be recovered from the Trade over a 3 year period. Councillor Tony Linden seconded this. The Committee voted overall in favour of this and the consensus was to proceed with the survey.

Councillor Jeff Beck thanked the Trade and the Disability Alliance representatives for their input at the meeting, and informed them that Disability Awareness Training was on the last Wednesday of each month, or could be arranged on other days. There had been two Seminars in August, which has been very positive.

Resolved that:

- 1) **Recommendations of the working group detailed at 3.1 and 3.2 be accepted in principle.**
- 2) **Recommendations of the working group detailed at 3.3 be accepted in principle.**
- 3) **Recommendations of the working group detailed at 3.4 be accepted.**
- 4) **Recommendations of the working group detailed at 3.4.1 to 3.4.1.2 be accepted**
- 5) **Recommendations of the working group detailed at 3.5 be accepted.**
- 6) **Recommendations of the working group detailed at 3.6 be rejected.**
- 7) **That new vehicles applying for a first licence be accepted up to the age of 5 years, and that there be no upper age limit on a vehicle.**
- 8) **Recommendations of the working group detailed at 3.7 be accepted in principle.**
- 9) **Recommendations of the working group detailed at 3.8 be accepted.**
- 10) **Recommendations of the working group detailed at 3.9 be accepted and the costs be recovered from the Trade over a 3 year period.**

10. Licensing Act 2003

Brian Leahy gave an overview of amendments made to the Council's Licensing Policy. The changes that had been made had been highlighted in red. These amendments were minor and made to simply update the existing policy. Comments had been received from the Musicians Union, which were positive and no other comments had been received.

Brian Leahy requested that the Committee approve the changes made and that the Chairman and Vice-Chairman might approve the policy on the Committee's behalf if there were further minor changes. If the Policy was signed off at the December 2010 Meeting, it would miss the Council meeting which would sign off the Policy. Brian Leahy stated that he did not anticipate any further amendments.

Councillor Quentin Webb queried whether or not the Policy would need to be changed again within 3 years, especially with the consultation on the Public Nuisance Act. Brian Leahy stated that very little would actually affect the Policy itself.

Councillor Adrian Edwards stated that he had read the Policy very carefully and that in the last three years there has been an increase in anti-social behaviour, especially on a Friday and Saturday night, most of which was alcohol fuelled. He felt that a stronger stance on clamping down on pubs and clubs should be enforced and this should be reflected in the Policy. There were two pubs in particular which were open until 2am in Newbury town centre, that he felt were a problem.

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Brian Leahy responded that this was not an enforcement Policy. Members had the right to curtail the hours of any premises. He sat on the anti-social behaviour Action Group and Newbury actually had one of the lowest levels of alcohol-related crime in the country. Members might soon be able to put a levy on pubs for town cleaning, if the new Act came into effect. Members could also call for a review of a license. The Policy was meant to be generic and neutral and one of the top Barristers in the Country had endorsed the West Berkshire Policy. It was possible to put a terminal hour in, but this would be challenged and the Council would then be called to review the Policy. There were however, issues with comments from the Neighbourhood Action Groups not being relayed to the Licensing Team and those with the power to make changes to licenses. So far only a handful of reviews had taken place.

Paul Anstey added that the Council could observe and control licenses however the burden was on the citizen to stand up to the local pub. This was an issue as it was hard to find tangible evidence or data to use in such a review – and this was needed from the Police and residents. However, the Council's powers might be extended in the future. There were other measures that were needed to tackle these issues as well, such as education and enforcement. The Policy was necessarily non-committal and generic. Paul Anstey stated that Licensing Officers made visits the next working day, if any reports did come into them, but there was a need to be better connected with the Neighbourhood Action Group process.

Brian Leahy stated that if new proposals were agreed by Government, the Licensing Officers would have the power to call for a review, but at the current time, that was not the case. This was a social problem that officers were very aware of. It was possible that a more dictatorial policy could be produced, but it would certainly be challenged.

In response to questions from Councillor Roger Hunneman, Brian Leahy stated that a Ward Member could request a review and this had been included in the training as well as the newsletters. The point regarding license holders serving customers who were already clearly drunk was unenforceable. Warnings were issued to landlords and a lot of time was committed to street work in West Berkshire. An AGM was held each year, where the Members received reports on different Trades.

Councillor Hunneman requested that 9.1 stated that the Council would 'consider shorter licensing hours', as well as longer ones.

Councillor Paul Bryant stated that he often went litter picking in Shaw and had found used contraceptives and other items and it was not only a problem with pubs in the area. He requested that the comment regarding Newbury as a low risk area, was deleted from the Policy.

Councillor Mollie Lock pointed out the problems were not only in the urban areas, but also in those more rural ones, such as Mortimer, residents who had been drinking in Reading, would return on the late buses.

Councillor Tony Linden proposed that the Policy be accepted and Councillor Jeff Beck seconded this. Members voted in favour of accepting the changes to the Policy, with the exception of Councillor Adrian Edwards who abstained.

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Resolved that:

- 1) The Council's Licensing Policy for the three year period commencing January 2011 be approved subject to the deletion of Newbury as a low risk area and the addition of 'considering shorter licensing hours' at 9.1.**
- 2) A notice be put into the Members' Bulletin reminding Members that they are able to call for a review of a premise's license.**

(The meeting commenced at 6.30 pm and closed at 9.00 pm)

CHAIRMAN

Date of Signature

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Title of Report:	Taxi Licensing
Report to be considered by:	Licensing
Date of Meeting:	21 st December 2010
Forward Plan Ref:	

Purpose of Report: To report back to the Committee following a period of consultation regarding in principle decision taken at the Committee Meeting held on the 13th September 2010

Recommended Action: To consider the report and either ratify or amend the "in principle" decisions previously taken

Reason for decision to be taken: Confirmation of an undertaking given at the previous meeting

Other options considered: None

Key background documentation: Committee Report and minutes 13th September 2010

The proposals contained in this report will help to achieve the following Council Plan Priority(ies):

- CPP1 – Support our communities through the economic downturn** – to alleviate the impact on different communities and individuals who find themselves out of work and/or disadvantaged
- CPP2 – Raise levels of educational achievement** – improving school performance levels
- CPP3 – Reduce crime and the fear of crime**

The proposals will also help achieve the following Council Plan Theme(s):

- CPT1 - Better Roads and Transport**
- CPT2 - Thriving Town Centres**
- CPT3 - Affordable Housing**
- CPT4 - High Quality Planning**
- CPT5 - Cleaner and Greener**
- CPT6 - Vibrant Villages**
- CPT7 - Safer and Stronger Communities**
- CPT8 - A Healthier Life**
- CPT9 - Successful Schools and Learning**
- CPT10 - Promoting Independence**
- CPT11 - Protecting Vulnerable People**
- CPT12 - Including Everyone**
- CPT13 - Value for Money**
- CPT14 - Effective People**
- CPT15 - Putting Customers First**
- CPT16 - Excellent Performance Management**

The proposals contained in this report will help to achieve the above Council Plan Priorities and Themes by:

Portfolio Member Details	
Name & Telephone No.:	Councillor Hilary Cole - Tel (01635) 248542
E-mail Address:	hcole@westberks.gov.uk
Date Portfolio Member agreed report:	

Contact Officer Details	
Name:	Brian Leahy
Job Title:	Senior Licensing Officer
Tel. No.:	01635 519209
E-mail Address:	bleahy@westberks.gov.uk

Implications

- Policy:** The Council has a policy of including all decisions made by the Committee as conditions to licences, where appropriate.
- Financial:** None
If there are any financial implications contained within this report this section **must** be signed off by a West Berkshire Group Accountant. Please note that the report cannot be accepted by Policy and Communication unless this action has been undertaken.
- Personnel:** None
- Legal/Procurement:** There will be a need to invite tenders for the garage/vehicle check contract if the recommended decision is taken at item 4 (Decision 3)
- Property:** None
- Risk Management:** None
- Equalities Impact Assessment:** EIA carried out
Where a decision is required, Policy and Communication are not able to accept your report without an EIA being completed. These should be sent to P&C along with your report and should be copied to the Principal Policy Officer (Equality & Diversity). For advice please contact Principal Policy Officer (Equality & Diversity) on Ext. 2441.
- Corporate Board's Recommendation:** To be completed after the Corporate Board meeting.

NOTE: The section below does not need to be completed if your report will not progress beyond Corporate or Management Board.

Is this item subject to call-in?	Yes: <input type="checkbox"/>	No: <input type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		

The item is due to be referred to Council for final approval	<input type="checkbox"/>
Delays in implementation could have serious financial implications for the Council	<input type="checkbox"/>
Delays in implementation could compromise the Council's position	<input type="checkbox"/>
Considered or reviewed by Overview and Scrutiny Commission or associated Task Groups within preceding six months	<input type="checkbox"/>
Item is Urgent Key Decision	<input type="checkbox"/>

Executive Summary

1. Introduction

- 1.1 West Berkshire Council is the Licensing Authority for the purposes of hackney carriage and private hire licensing under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
- 1.2 This report is to be considered as feedback from a consultation with the taxi trade following decisions taken in principle at the Licensing Committee Meeting held on the 13th September 2010.

2. Proposals

- 2.1 To consider the responses and either confirm those decisions previously made or amend.

3. Conclusion

- 3.1 The outcomes of this meeting, where decisions are made, will become legally binding as conditions

Executive Report

1. Introduction

- 1.1 At its meeting held on the 13th September 2010, the Licensing Committee made a number of decisions with regard to hackney carriage licensing.
- 1.2 It was agreed that prior to some of the decisions being confirmed, that a consultation exercise be carried out with the trade and those comments be brought back to Committee.
- 1.3 As of the closure date for consultation 10th December 2010 only 6 responses had been received although 461 individual letters of consultation were sent to existing licence holders. However, it should be noted that the associations are representative of their members and therefore the number of interested parties consulted by them will be vastly greater than the number of individual responses received.
- 1.4 Following the Committee Meeting a Taxi Liaison Meeting was held on the 5th November 2010 where some of the decisions were discussed between officers and trade representatives.
- 1.5 Some of the responses received have expanded upon the original decisions made and for this reason the responses have been summarised and only fully quoted where full clarification is required in order that Members can make a reasonably informed decision.
- 1.6 A copy of the consultation letter is attached at Appendix A. Comments regarding each decision have been numbered 1 to 6 as in the consultation letter to avoid any confusion.

2. Decision 1

All new taxi drivers, as of the 23rd December 2010 (to be confirmed) will be required to have passed a taxi/private hire driving assessment with the Driving Standards Agency (DSA) prior to any licence being issued.

2.1 Consultation Responses

- 2.1.1 There was a general consensus that this decision is acceptable to those responding.

2.2 Recommendation

- 2.2.1 Decision to be confirmed. Details of content of assessment to be confirmed by officers following trade consultation. Effective date for implementation 23rd December 2010. Note: this will not affect those applications currently being processed.

3 Decision 2

All taxi drivers will be required to have passed a taxi/private hire driving assessment with the Driving Standards Agency within three years of the proposed implementation date of 23rd December 2010.

3.1 Consultation Responses

- 3.1.1 There were mixed views with regard to this decision. Four of the responders were quite clearly against this requirement as they felt that “time served” drivers had already proved their capabilities with regard to driving taxis and that no further training was necessary. The third responder had no major objection but felt that the time period which had been suggested for compliance be extended to 5 or even 10 years.

3.2 Recommendation

- 3.2.1 Officers make no recommendation to this decision. However, it may be prudent to relax standing orders to hear further from the trade prior to a final decision being taken.

4. Decision 3

The Council vehicle test, which is currently being carried out by Halfway Garage Thatcham, is to be replaced with a test which is the equivalent of an MOT (to be known as the “Council Test”).

Consultation Responses

There appears to be a general agreement that a more comprehensive test, than that which is currently being carried, out is agreeable. One responder, although having no major objection, felt that this decision should be deferred until the financial climate improves.

Recommendation

Decision to be confirmed. Details of the test, its frequency and other minor matters to be confirmed by officers following trade liaison. Effective date for implementation 1st July 2011.

5. Decision 4

The measured mile and meter test is to be reintroduced as a requirement of the above annual test.

Consultation Responses

There was general agreement that the measured mile and meter test should be reinstated.

Recommendation

Decision to be confirmed. Details of the manner in which the measured mile and meter test be carried out, to be confirmed by officers following trade liaison. Effective date for implementation 1st July 2011.

6. Decision 5

Vehicles will be accepted for first licensing up to the age of 5 years. Any vehicle over 5 years old will be rejected. There is to be no upper limit to the age of a vehicles presented for re-licensing (renewal).

Consultation Responses

Only one responder had an adverse view on this decision. The comment was totally against this proposal as “it will cause major difficulties and inequality. The highest burden will, yet again, fall upon those of us that provide wheelchair accessible cars as these are much more expensive than saloon cars. This proposal is being pushed by the companies that have more saloon cars as they know it will give them a much greater competitive advantage”,

Recommendation

6.2.1 Decision to be confirmed.

7. Decision 6

All wheelchair accessible vehicles which are not constructed as such at manufacture and presented for initial and replacement vehicle licensing, will only be considered if they are accompanied by a National or Single Type Approval Certificate incorporating any modification.

7.1 Consultation Responses

7.1.1 There were three responses received regarding this decision, Two responders were completely against this proposal and one comments “I object. This is against DTI guidance. It would impose a disproportionate burden on Wheelchair Accessible Vehicle suppliers, restrict vehicle choice and discriminate against part-timers whilst not giving any additional safety guarantee. Other, cheaper options would provide a greater guarantee of safety. it will cause major difficulties and inequality”. The responder here goes on to ask Members to consider other additional safety issues which were not a part of the consultation exercise but may have some validity for future trade/officer liaison. The second objector comments “This proposal is unacceptable as it stands. This proposal will be seriously detrimental to the interests of the disabled community and will add substantial costs to the trade. This proposal, as it is currently framed, is unlikely to meet many of the Council’s own key policy guidelines”. The third states “ We fully agree with the condition, also ensuring that all devices used to load, and secure the wheelchair, and the passenger restraints are also approved and checked, with certification issued yearly”.

7.2 Recommendation

7.2.1 Decision to be confirmed. Prior to taking this decision Members may wish to consider suspending standard orders to allow these responders to speak.

Appendices

There are no Appendices to this report.

Consultees

Local Stakeholders: Taxi trade
Officers Consulted: Paul Anstey
Trade Union: None

Title of Report:	Hackney Carriage and Private Hire Driver Licences
Report to be considered by:	Licensing
Date of Meeting:	21 st December 2010
Forward Plan Ref:	

Purpose of Report: To consider the amalgamation of the hackney carriage and private hire driver's licence where a driver wishes to drive both types of vehicle.

Recommended Action: To offer a 'Dual' licence in addition to existing taxi and private hire drivers

Reason for decision to be taken: Request from the taxi and private hire associations

Other options considered: None

Key background documentation: None

The proposals contained in this report will help to achieve the following Council Plan Priority(ies):

- CPP1 – Support our communities through the economic downturn** – to alleviate the impact on different communities and individuals who find themselves out of work and/or disadvantaged
- CPP2 – Raise levels of educational achievement** – improving school performance levels
- CPP3 – Reduce crime and the fear of crime**

The proposals will also help achieve the following Council Plan Theme(s):

- CPT1 - Better Roads and Transport**
- CPT2 - Thriving Town Centres**
- CPT3 - Affordable Housing**
- CPT4 - High Quality Planning**
- CPT5 - Cleaner and Greener**
- CPT6 - Vibrant Villages**
- CPT7 - Safer and Stronger Communities**
- CPT8 - A Healthier Life**
- CPT9 - Successful Schools and Learning**
- CPT10 - Promoting Independence**
- CPT11 - Protecting Vulnerable People**
- CPT12 - Including Everyone**
- CPT13 - Value for Money**
- CPT14 - Effective People**
- CPT15 - Putting Customers First**
- CPT16 - Excellent Performance Management**

The proposals contained in this report will help to achieve the above Council Plan Priorities and Themes by:
 Reviewing the efficiency of producing licences for the taxi trade.

Portfolio Member Details	
Name & Telephone No.:	Councillor Hilary Cole - Tel (01635) 248542
E-mail Address:	hcole@westberks.gov.uk
Date Portfolio Member agreed report:	10 th December 2010

Contact Officer Details	
Name:	Brian Leahy
Job Title:	Senior Licensing Officer
Tel. No.:	01635 519209
E-mail Address:	bleahy@westberks.gov.uk

Implications

Policy: The proposal would change the current policy of issuing separate driver's licences for hackney carriages and private hire vehicles.

Financial: Subject to decision, £390 per year reduced income.
 If there are any financial implications contained within this report this section **must** be signed off by a West Berkshire Group Accountant. Please note that the report cannot be accepted by Policy and Communication unless this action has been undertaken.

Personnel: None

Legal/Procurement: None

Property: None

Risk Management: None

Equalities Impact Assessment: EIA carried out
 Where a decision is required, Policy and Communication are not able to accept your report without an EIA being completed. These should be sent to P&C along with your report and should be copied to the Principal Policy Officer (Equality & Diversity). For advice please contact Principal Policy Officer (Equality & Diversity) on Ext. 2441.

Corporate Board's Recommendation: To be completed after the Corporate Board meeting.

NOTE: The section below does not need to be completed if your report will not progress beyond Corporate or Management Board.

Is this item subject to call-in?	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
The item is due to be referred to Council for final approval	<input type="checkbox"/>	
Delays in implementation could have serious financial implications for the Council	<input type="checkbox"/>	

Delays in implementation could compromise the Council's position	<input type="checkbox"/>
Considered or reviewed by Overview and Scrutiny Commission or associated Task Groups within preceding six months	<input type="checkbox"/>
Item is Urgent Key Decision	<input type="checkbox"/>

Executive Summary

1. Introduction

- 1.1 West Berkshire Council is the Licensing Authority for the purposes of hackney carriage and private hire licensing under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. Under these Acts, separate licences are required for vehicles used for either purpose and for the drivers of such vehicles.
- 1.2 The Council issues separate licences as required by both Acts and licences are issued for 3 years for drivers and annually for vehicles. A charge is made for both licences.
- 1.3 The trade associations have requested that the Council consider amalgamating the two driver's licences thus possibly reducing the cost to the driver, where a driver wishes to drive both types of vehicle.

2. Proposals

- 2.1 To offer the 'dual' licence to the trade. This would result in a very small reduction in cost of production which will be passed onto the trade.

3. Conclusion

- 3.1 It is the opinion of officers that it is feasible to produce 1 licence which complies with the requirements of each Act and meets the demand from the trade. There are some very small financial implications for the council but these will be offset in a small reduction in administration.

Executive Report

1. Introduction

- 1.1 It is possible to produce 1 licence which complies with the requirements of each Act. Even if the Council decide to approve a dual licence it should also maintain a stand alone licence for private hire and hackney carriage drivers.
- 1.2 Drivers who only wish to drive 1 type of vehicle have an expectation that the fee for 1 licence would be less than one that covers 2 licences (Dual).
- 1.3 Currently the fee for each of the driver licences is £233.00.
- 1.4 Drivers are required to have a medical examination every 3 years and a Criminal Records Bureau check at a cost of £90 and £51 respectively.
- 1.5 There are currently 55 drivers who hold both licences with 2 pending. Should a dual licence be introduced it is assumed that most of the 57 would take up this option. This may result in a loss of income, the extent of which can only be determined once a fee structure has been approved.
- 1.6 The trade have suggested that if one licence were available it would result in significant savings to the Council by virtue of reduced administration. A review of the process involved in producing a licence shows that the saving will be 1 less paper licence (2 pieces of paper), 1 less driver licence badge and 30 minutes per week of Admin officer time. In monetary terms this equates to £390 per year (based on existing 57 licences).
- 1.7 Officers are informed by our systems development team that because there would be 3 types of licence there is a need for 3 data entry streams. 1 for hackney carriage, 1 for private hire and 1 for dual.
- 1.8 There is however potential for a consolidation of application details currently submitted on paper forms for each type of licence, which could be amalgamated to 1 application form for all types of licence and a simple declaration given as to no change in circumstances for renewals. This would reduce the administrative burden on the trade but would still require the Council's administrator to make computer entries.

2. Options

2.1 Option 1 - Keep the existing system

(1) Advantages

- (a) This does not impact on budget.
- (b) Eliminates the need for additional system development resources.

(2) Disadvantages

- (a) Trade do not get a reduced fee.

- (b) Trade continue to need to complete 2 separate application forms

2.2 Option 2 - Offer existing system plus 'Dual' Licence

(1) Advantages

- (a) The trade will save time during application and renewal process through having only 1 form to complete.
- (b) Reduced administration time for the council to produce dual licence in relation to 2 separate licences (estimated at 30 minute saving per week).
- (c) £390 per year saving to the council.
- (d) Council saving passed on to dual licence applicants totalling £20 per licence.

(2) Disadvantages

- (a) System development time required by council to create additional parameters in database (project estimated at 2 weeks 1FTE).

3. Recommendations

Proceed with Option 2 to become effective on 1st April 2011.

Appendices

There are no Appendices to this report.

Consultees

Local Stakeholders: CABCO Association, West Berkshire Hackney & Private Hire Association, Independent licensed drivers

Officers Consulted: Paul Anstey, EHLM.

Trade Union: None

Agenda Item 6.

Title of Report:	Hackney Carriage Licensing	Item
Report to be considered by:	Licensing	
Date of Meeting:	21 December 2010	
Forward Plan Ref:		

Purpose of Report: To consider allowing Group 2 Driver Medicals to be carried out by the applicants GP for Hackney Carriage and Private Hire Drivers

Recommended Action: To consider the report and options/recommendations provided

Reason for decision to be taken: Request from the Trade Associations

Other options considered: None

Key background documentation: "Fitness to Drive": A Guide for Health Professionals,

The proposals contained in this report will help to achieve the following Council Plan Priority(ies):

- CPP1 – Support our communities through the economic recession** – to alleviate the impact on different communities and individuals who find themselves out of work and/or disadvantaged
- CPP2 – Raise levels of educational achievement** – improving school performance levels
- CPP3 – Reduce West Berkshire’s carbon footprint** – to reduce CO₂ emissions in West Berkshire and contribute to waste management, green travel, transportation and energy efficiency

The proposals will also help achieve the following Council Plan Theme(s):

- CPT1 - Better Roads and Transport**
- CPT2 - Thriving Town Centres**
- CPT3 - Affordable Housing**
- CPT4 - High Quality Planning**
- CPT5 - Cleaner and Greener**
- CPT6 - Vibrant Villages**
- CPT7 - Safer and Stronger Communities**
- CPT8 - A Healthier Life**
- CPT9 - Successful Schools and Learning**
- CPT10 - Promoting Independence**
- CPT11 - Protecting Vulnerable People**
- CPT12 - Including Everyone**
- CPT13 - Value for Money**
- CPT14 - Effective People**
- CPT15 - Putting Customers First**
- CPT16 - Excellent Performance Management**

The proposals contained in this report will help to achieve the above Council Plan Priorities and Themes by:
 allowing the applicants GP to assess their medical fitness to drive a public hire vehicle rather than an Occupational Health Physician, who has no personal knowledge of the applicant and by possibly making medical examinations cheaper.

Portfolio Member Details	
Name & Telephone No.:	Councillor Hilary Cole - Tel (01635) 248542
E-mail Address:	hcole@westberks.gov.uk
Date Portfolio Member agreed report:	10 th December 2010

Contact Officer Details	
Name:	Brian Leahy
Job Title:	Senior Licensing Officer
Tel. No.:	01635 519209
E-mail Address:	bleahy@westberks.gov.uk

Implications

Policy: Although the Council has an existing policy of requiring a Group 2 Standard Medical, it is currently required that an Occupational Health Practitioner undertakes the examination.

Financial: There are financial implications for the Council should Option 1 be adopted in terms of reduced income. However there would be no payments being made to the Occupational Health Service thus balancing the budget. Should Members choose Option 2 there are no financial implications other than those that currently exist.

If there are any financial implications contained within this report this section **must** be signed off by a West Berkshire Group Accountant. Please note that the report cannot be accepted by Policy and Communication unless this action has been undertaken.

Personnel: None:

Legal/Procurement: The Council has a duty to licence hackney carriage vehicles and may attach conditions to licences as it considers reasonably necessary. The requirement for a medical examination for drivers is such a condition.

Property: None

Risk Management: None

Equalities Impact Assessment: An impact assessment has been carried out.
 For advice please contact Principal Policy Officer (Equalities) on Ext. 2441.

Corporate Board's View: to be completed after the Corporate Board meeting

NOTE: The section below does not need to be completed if your report will not progress beyond Corporate or Management Board.

Is this item subject to call-in?	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
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Delays in implementation could compromise the Council's position	<input type="checkbox"/>	
Considered or reviewed by Overview and Scrutiny Commission or associated	<input type="checkbox"/>	
Task Groups within preceding six months	<input type="checkbox"/>	
Item is Urgent Key Decision	<input type="checkbox"/>	

Executive Summary

1. Introduction

- 1.1 WBC Licensing Team received a request from the Taxi Trade Associations to allow a driver's GP to carry out a medical test.
- 1.2 This would be a change from current practice which only allows the Royal Berkshire NHS Occupational Health Service (OHS) to carry out medicals for the purposes of issuing the relevant licence.

2. Recommendation

- 2.1 Officers recommend accepting the request from the trade. Accept the request from the trade. Allow drivers to arrange their own medicals with whichever practitioner they choose be it, their own GP, a GP from the same practice or OHS. To use the DVLA standard guidance for medicals and require all drivers to attend a medical upon first licensing and then every 5 years between the ages of 45 and 65 with annual examinations every year when over 65.

Executive Report

3. Introduction

- 3.1 This report explains the current requirements for taxi and private hire drivers to undertake a medical to Group 2 Standards, which is currently carried out by the Royal Berkshire NHS Occupational Health Service (OHS) and a proposal from the Trade Associations to allow a driver's GP to undertake the medical.
- 3.2 The House of Commons Transport Select Committee on taxis and private hire vehicles recommended in February 1995 that taxi licence applicants should pass a medical examination before a licence could be granted.
- 3.3 Responsibility for determining the standards, over and above the driver licensing requirements, rests with the Public Carriage Office in the Metropolitan Area and the local Authority in all other areas. Current best practice advice is contained in the booklet "Fitness to Drive": A Guide for Health Professionals" published on behalf of the Department by The Royal Society of Medicine Press Limited (RMS) in 2006. This recommended that the group 2 medical standards applied by DVLA in relation to bus and lorry drivers, should also be applied by local authorities to taxi and private hire drivers.

4. Background

- 4.1 At a meeting of the Public Protection Committee on 21st June 1999 Members resolved to approve the introduction of medical examinations for all taxi and private hire drivers.
- 4.2 This decision was made in response to the Members considering the following report;
- 4.3 "Both trade associations have agreed that the review of the licensing standards should include requirements for all drivers regardless of age to undergo medical examinations. At present only drivers over 65 are required to undergo annual medical examinations and it is proposed that this continue but with the introduction of a requirement that all drivers under 65 be required to undergo a medical examination every three years, or more frequently if their medical examiner recommends. The cost of such examinations would be borne by the driver". The fee at the time for drivers over 65 was approximately £65.
- 4.4 It would appear that contact was made with the West Berkshire Occupational Health Service (OHS) in February 2000 and an agreement made for them to undertake medicals based upon a three year phase in period, following which every driver would undertake a Group 2 Standard Medical every three years, unless over 65, when the medical would remain at every year. This was to be fully implemented at the end of March 2003. The cost for this would be £45, at the time.
- 4.5 A letter was sent to all taxi and private hire drivers on 3rd March 2000 informing them of this condition.

- 4.6 Since March 2003 the procedure has remained in place exactly as determined with the exception of medical examinations for those drivers who are being treated for diabetes, using insulin. The full Group 2 recommendation was that all insulin treated diabetics would be refused a Group 2 licence (in this case a taxi or private hire licence) however in 2005 Diabetes UK successfully lobbied the Government and it was agreed that a reduced standard of C1 would be acceptable for insulin dependant drivers subject to all other aspects of Group 2 being met. The Council adopted this standard in September 2005. These medicals are normally carried out annually.

5. Current Situation

- 5.1 The current fee for an OHS medical is £90. This fee is paid to the Council and OHS invoice the Council monthly.
- 5.2 The driver will provide the licensing administrator with a photograph of themselves. The photograph and details of the applicant's name, address, receipt number for the fee paid to the Council, date of birth and any known medical conditions will be sent to OHS.
- 5.3 The driver will then make an appointment with OHS and present him/herself for the examination at the arranged time.
- 5.4 The OHS will send a report to the Council stating whether or not the applicant is medically fit to drive a taxi/private hire vehicle. The actual medical report is not seen directly by officers due to Doctor/patient confidentiality.
- 5.5 If the recommendation is fit, the licence will be issued subject to all other requirements being met. If the recommendation is an outright unfit the licence will be refused. There are occasions where the OHS will recommend a referral to the applicant's GP which will result in delays in dealing with the application.
- 5.6 A medical is required upon first application and then every 3 years at the anniversary of the issue date of the licence and every year once the driver is over 65.

6. Request from the Trade Associations

- 6.1 Trade Associations believe that the fee is disproportionate to the service that is offered and that a more comprehensive medical could be carried out by the applicants GP using the Group 2 Standard.
- 6.2 There is also a belief, on the part of the trade, that a medical carried out by the GP could be cheaper than that carried out by OHS.

7. Advantages of accepting the Trade proposal

- 7.1 The GP would have an intimate knowledge of the driver's medical history and would not, generally, have to refer elsewhere.
- 7.2 In cases where a specialist medical referral was required, the GP would carry this out directly improving the speed of processing licences.

- 7.3 It is possible that driver applicants could negotiate a fee for the medical.
- 7.4 The medical could be arranged at a time and date which is advantageous to the applicant.
- 7.5 The applicant would be able to present the medical report directly to the licensing officer with the application form, thus reducing any delay in the procedure for issue.
- 7.6 If Group 2 Standards are adopted fully, then the frequency of medical examination would change from 3 years to 5 but would remain at annually for those over 65. This, if adopted, would result in reducing the cost to the trade.

8. Disadvantages of accepting the Trade proposal

- 8.1 Some GP's may not be fully aware of the Group 2 Standards. In making this statement officers intend no aspersions against any medical practitioner.
- 8.2 Based on the Group 2 Standard the frequency of examination would change from 3 years to 5 for those drivers between 45 to 65 but would remain annual for those over 65.
- 8.3 Increased likelihood of inconsistency between tests. This is anticipated due to variety of individuals/organisations undertaking the tests.
- 8.4 Licensing Officers lose the single point of contact for information about medicals. They would be dependant upon the applicant keeping the Council aware of the details of the GP with whom they have consulted.
- 8.5 A significant reduction in trade for the OHS could result in the service being lost altogether. This would reduce options for drivers not wishing to use GP services.

9. Options

9.1 Option 1

- (1) Accept the request from the trade. Allow drivers to arrange their own medicals with whichever practitioner they choose as long as it is their own GP, a GP from the same practice or OHS. To use the DVLA standard guidance for medicals and require all drivers to attend a medical upon first licensing and then every 5 years between the ages of 45 and 65 with annual examinations every year when over 65.

9.2 Option 2

- (1) Reject the request from the trade. Keep the current arrangement with all drivers attending OHS for their medicals at the frequency of examination of on first being licensed and then every 3 years up to age 65, when examination would become every year.

8. Recommendations

- 8.1 Officers recommend option 1.

Appendix A: Draft pro forma medical report form

Local Stakeholders: *West Berkshire Hackney Carriage & Private Hire Drivers.
CABCO Members Association.
West Berkshire Hackney & Private Hire Association
West Berkshire Executive Hire Association*

Officers Consulted: *Paul Anstey*

APPENDIX A

GROUP 2 MEDICAL STANDARDS EXAMINATION REPORT FORM

Notes

Section 57 Local Government (Miscellaneous Provisions) Act 1976 allows for a council to require an applicant for a hackney carriage or private hire driver's licence to provide a Medical Examination Certificate to the effect that the applicant is physically fit to be the driver of such vehicle.

This form should be presented to the applicants own General Practitioner (GP), or a GP from the same practice. The doctor completing the medical must have been in possession of the applicants clinical records for the past 12 months and be fully aware of their medical history at the time of the examination. In the case of the applicant wishing to have his/her medical carried out by the Occupational Health Service please contact the Licensing Administrator for details.

A medical examination will be required at first licensing as a driver and then every 5 years up to the age of 65 when the examination will be required every year.

The fee for the medical must be arranged with the GP or in the case of an applicant who wishes to attend Occupational Health, the fee current at the time, must be paid to the Council when submitting the application.

The Council's officers are not legally allowed to complete or amend forms on behalf of applicants.

Any apparent changes, erasures or disfiguring of the form may be taken up with the GP signing the form.

GUIDANCE NOTES:

Applicant

- 1. Before consulting your GP please read Notes for Drivers below.**
- 2. If after reading these notes you believe that you may not meet any of the standards outlined, you should contact your GP or Optician prior to attending for the medical as the GP may charge you a re-examination fee should you not meet the required medical standard.**
- 3. West Berkshire Council have no control over any fee charged for a medical examination and applicants are strongly advised to enquire of their medical practice what the fee will be, including any re-examination if found necessary.**
- 4. You must complete section ???? of the form in the presence of the GP carrying out the examination.**
- 5. Submit the medical form to the Council together with the driver licence application form and other required information.**

General Practitioner

- 6. Please complete sections 1-7 and 9 of the medical questionnaire.**
- 7. You may wish to have regard to the DVLA's "At a Glance Guide to the Current Medical Standards of Fitness to Drive" publication. This is available from the "medical rules for all drivers" section at www.directgov.uk/motoring.**
- 8. The Council only require medical information which may or is likely to affect a persons fitness to drive a vehicle covered by Group 2 standards.**
- 9. The doctor completing the medical record must have been in possession of the applicants clinical records for the past 12 months and be fully aware of the applicants medical history at the time of the examination.**
- 10. Please return the completed form to the patient for submission to West Berkshire Council as part of the licensing application.**

Medical Notes for Drivers

Medical standards for drivers of hackney carriages and private hire vehicles are the same as those for heavy goods vehicles and Public Service vehicles. These are known as Group 2 Standards and are greater than those required for a standard DVLA driver licence. Notwithstanding the 5 yearly medical, you should be aware that certain medical conditions occurring within the period between medicals may have to be reported to DVLA and must also be reported to the Licensing Team at West Berkshire Council.

The following conditions may be likely to be a bar to holding or being issued a hackney carriage or private hire driver's licence.

- Epileptic Attack
- Diabetes
- Eyesight
- Myocardial infarction, unstable angina CABG or coronary angioplasty
- significant disturbance of cardiac rhythm within the last 5 years
- suffering from or receiving medication for angina or heart failure
- Hypertension where the BP is persistently 180 systolic or 100 diastolic or over
- a stroke or TIA within the last 12 months.
- unexplained loss of consciousness within the last 5 years
- Menieres and other conditions causing disabling vertigo, within the last 12 months and with a liability to recurrence
- recent severe head injury with serious continuing after effects or major brain surgery
- Parkinson's disease, multiple sclerosis or other "chronic" neurological disorders likely to affect limb power and coordination
- suffering from a psychotic illness in the past 3 years or suffering from dementia
- alcohol dependency or misuse or persistent drug or substance misuse or dependency in the past 3 years

This list is not exhaustive and is only intended as an information guide to applicants.

Property and Public Protection
Environmental Health & Licensing
West Berkshire District Council
Council Offices
Faraday Road Newbury
Berkshire RG14 2AF
Tel: 01635 42400 Fax: 01635 519172

GROUP II MEDICAL EXAMINATION REPORT FORM

INFORMATION NOTES

It is a requirement under Section 57 of the Local Government (Miscellaneous Provisions) Act, 1976, to provide a Medical Examination Report to the effect that you are physically fit to drive a Hackney Carriage and / or Private Hire.

This form is to be completed by the applicant's own General Practitioner (GP) or another GP within the same practice and is for the confidential use of the Licensing Authority.

A Group II Medical Report Form is be required every 5 years until the age of 65. From the age of 65 a Group II Medical Report Form will be required annually.

Any fee charged is payable by the applicant directly to the Doctor.

- PLEASE COMPLETE IN BLOCK CAPITAL LETTERS IN BLACK INK

Licensing Officers are not permitted to complete or amend forms on behalf of applicants for legal reasons.

Medical Examination Report
To be filled in by the Doctor

The Patient must fill in sections 9 and 10 in the Doctor's presence (please use black ink)

- Please answer **all** questions.

Patient's weight (kg)	Height (cms)
-----------------------	--------------

Details of smoking habits, if any
Number of alcohol units taken each week

Is the urine analysis positive for Glucose? (please tick <input type="checkbox"/> appropriate box)	YES	NO
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Details of type of specialist(s)/ consultants, including address

1.	2.	3.	4.

Date of last Appointment

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Date when first licensed to drive a motor vehicle

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1. Vision

Please tick the appropriate

1. Is the visual acuity at least 6/9 in the better eye and at least 6/ 12 in the other? (corrective lenses may be worn) as measured with the full size 6m snellen chart	YES	NO
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2. Do corrective lenses have to be worn to achieve this standard? If YES , is the:-	YES	NO
(a) uncorrected acuity at least 3/ 60 in the right eye?	YES	NO
(b) uncorrected acuity at least 3/ 60 in the left eye? (3/60 being the ability to read the 6/60 line of the full size 6m Snellen chart at 3 metres)	YES	NO
(c) correction well tolerated?	YES	NO

3. Please state the visual acuities of each eye in terms of the 6m Snellen chart. Please convert any 3 metre readings to the 6 metre equivalent.			
Uncorrected		Corrected (if applicable)	
Right	Left	Right	Left

4. Is there a defect in the patient's binocular field of vision (central and/or peripheral)?	YES	NO
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5. Is there diplopia? (controlled or uncontrolled)?	YES	NO
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6. Does the patient have any other ophthalmic condition? If YES to 4, 5 or 6 please give details in Section 7 and enclose any relevant visual field charts or hospital letters.	YES	NO
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2. Nervous System

1. Has the patient had any form of epileptic attack? If YES , please answer questions a–f	YES	NO
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(a) Has the patient had more than one attack?	YES	NO
(b) Please give date of first and last attack		
First attack		Last attack
(c) Is the patient currently on anti-epilepsy medication? If Yes , please fill in current medication on the appropriate section on the front of this form	YES	NO
(d) If treated, please give date when treatment ended		
(e) Has the patient had a brain scan? If Yes , please state:	YES	NO
MRI		Date
CT		Date
	Please supply reports if available	
(f) Has the patient had an EEG?	YES	NO
If Yes , please provide dates Please supply reports if available		
2. Is there a history of blackout or impaired consciousness within the last 5 years?	YES	NO
If YES , please give date(s) and details in Section 7		
3. Is there a history of, or evidence of any of the conditions listed at a–g below? If NO , go to Section 3 .	YES	NO
If YES , please tick the relevant box(es) and give dates and full details at Section 7 and supply any relevant reports.		
(a) Stroke / TIA <i>please delete as appropriate</i>	YES	NO
If YES , please give date		has there been
a full recovery?		
(b) Sudden and disabling dizziness/vertigo within the last 1 year with a liability to recur	YES	NO
(c) Subarachnoid haemorrhage	YES	NO

(d) Serious head injury within the last 10 years	YES	NO
(e) Brain tumour, either benign or malignant, primary or secondary	YES	NO
(f) Other brain surgery/abnormality	YES	NO
(g) Chronic neurological disorders e.g. Parkinson's disease, Multiple Sclerosis	YES	NO

3. Diabetes Mellitus

<p>1. Does the patient have diabetes mellitus? If NO, please go to Section 4.</p> <p>If YES, please answer the following questions.</p>	Y ES	NO
<p>2. Is the diabetes managed by:-</p> <p>(a) Insulin? If YES, please give date started on insulin</p> <p>(b) Exenatide / Byetta</p> <p>(c) Oral hypoglycaemic agents and diet? If YES, please fill in current medication on the appropriate section on the front of this form.</p> <p>(d) Diet only?</p>	YES YES YES YES	NO NO NO NO
3. Does the patient test blood glucose at least twice every day?	YES	NO
<p>4. Is there evidence of:-</p> <p>(a) Loss of visual field?</p> <p>(b) Severe peripheral neuropathy, sufficient to impair limb function for safe driving?</p> <p>(c) Diminished/Absent awareness of hypoglycaemia?</p>	YES YES YES	NO NO NO
<p>5. Has there been laser treatment for retinopathy?</p> <p>If YES, please give date(s) of treatment</p>	YES	NO
6. Is there a history of hypoglycaemia during waking hours in the last 12 months requiring assistance from a third party?	YES	NO

If YES to any of 4–6 above, please give details in Section 7		
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4. Psychiatric Illness

<p>Is there a history of, or evidence of any of the conditions listed at 1–7 below? If NO, please go to Section 5.</p> <p>If YES please tick the relevant box(es) below and give date(s), prognosis, period of stability and details of medication, dosage and any side effects in Section 7.</p> <p>NB. Please enclose relevant hospital notes.</p> <p>NB. If patient remains under specialist clinic(s) ensure details are filled in at the top of page 1</p>	YES	NO
1. Significant psychiatric disorder within the past 6 months	YES	NO
2. A psychotic illness within the past 3 years, including psychotic depression	YES	NO
3. Dementia or cognitive impairment	YES	NO
4. Persistent alcohol misuse in the past 12 months	YES	NO
5. Alcohol dependency in the past 3 years	YES	NO
6. Persistent drug misuse in the past 12 months	YES	NO
7. Drug dependency in the past 3 years	YES	NO

5. Cardiac

<p>Is there a history of, or evidence of, Coronary Artery Disease? If NO, go to Section 5B.</p> <p>If YES please answer all questions below and give details at Section 7 of the form and enclose relevant hospital notes.</p>	YES	NO
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5a Coronary Artery Disease

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1. Acute Coronary Syndromes including Myocardial Infarction? If Yes , please give date(s)	YES	NO
2. Coronary artery by-pass graft surgery? If Yes , please give date(s)	YES	NO
3. Coronary Angioplasty (P.C.I) If Yes , please give date of most recent intervention	YES	NO
4. Has the patient suffered from Angina? If Yes , please give the date of the last known attack	YES	NO

Please go to next Section 5B

5b Cardiac Arrhythmia

Is there a history of, or evidence of, cardiac arrhythmia? If NO , go to Section 5C . If YES please answer all questions below and give details in Section 7 of the form.	YES	NO
1. Has there been a significant disturbance of cardiac rhythm? i.e. Sinoatrial disease, significant atrio-ventricular conduction defect, atrial flutter/fibrillation, narrow or broad complex tachycardia in last 5 years	YES	NO
2. Has the arrhythmia been controlled satisfactorily for at least 3 months?	YES	NO
3. Has an ICD or biventricular pacemaker (CRST-D type) been implanted?	YES	NO
4. Has a pacemaker been implanted? If YES :- (a) Please supply date (b) Is the patient free of symptoms that caused the device to be fitted? (c) Does the patient attend a pacemaker clinic regularly?	YES YES YES	NO NO NO

Please go to Section 5C

5c Peripheral Arterial Disease (excluding Buerger's Disease) Aortic Aneurysm/Dissection

<p>Is there a history or evidence of ANY of the following:</p> <p>If YES please tick <input type="checkbox"/> ALL relevant boxes below, and give details in Section 7 of the form. If NO go to Section 5D.</p>	YES	NO
1. PERIPHERAL ARTERIAL DISEASE (excluding Buerger's Disease)	YES	NO
<p>2. Does the patient have claudication? If YES for how long in minutes can the patient walk at a brisk pace before being symptom limited? Please give details</p>	YES	NO
<p>3. AORTIC ANEURYSM</p> <p>IF YES: (a) Site of Aneurysm: Thoracic / Abdominal</p> <p>(b) Has it been repaired successfully?</p> <p>(c) Is the transverse diameter currently > 5.5cms?</p> <p>If NO, please provide latest measurement and date obtained</p>	YES	NO
<p>4. DISSECTION OF THE AORTA REPAIRED SUCCESSFULLY: If yes please provide copies of all reports to include those dealing with any surgical treatment.</p>	YES	NO

Please go to Section 5D

5D Valvular/Congenital Heart Disease

<p>Is there a history of, or evidence, of valvular/congenital heart disease? If NO, go to Section 5E</p> <p>If YES please answer all questions below and give details in Section 7 of the form.</p>	YES	NO
1. Is there a history of congenital heart disorder?	YES	NO
2. Is there a history of heart valve disease?	YES	NO

3. Is there any history of embolism? (not pulmonary embolism)	YES	NO
4. Does the patient currently have significant symptoms?	YES	NO
5. Has there been any progression since the last licence application? (if relevant)	YES	NO

Please go to section 5E

5e Cardiac Other

Does the patient have a history of ANY of the following conditions:	YES	NO
(a) a history of, or evidence of heart failure?	YES	NO
(b) established cardiomyopathy?	YES	NO
(c) a heart or heart/ lung transplant?	YES	NO
If YES please give full details in Section 7 of the form. If NO, go to section 5F		

5f Cardiac Investigations

This section must be filled in for all patients

1. Has a resting ECG been undertaken?	YES	NO
If YES , does it show:-	YES	NO
(a) pathological Q waves?	YES	NO
(b) left bundle branch block?	YES	NO
(c) right bundle branch block?	YES	NO
2. Has an exercise ECG been undertaken (or planned)?	YES	NO
If YES , please give date and give details in Section 7		
<i>Please provide relevant reports if available</i>		
3. Has an echocardiogram been undertaken (or planned)?	YES	NO
(a) If YES , please give date and		

<p>give details in Section 7</p> <p>(b) If undertaken, is/was the left ventricular ejection fraction greater than or equal to 40%?</p> <p><i>Please provide relevant reports if available</i></p>		
<p>4. Has a coronary angiogram been undertaken (or planned)?</p> <p>If YES, please give date give details in Section 7</p> <p><i>Please provide relevant reports if available</i></p>	YES	NO
<p>and</p>		
<p>5. Has a 24 hour ECG tape been undertaken (or planned)?</p> <p>If YES, please give date give details in Section 7</p> <p><i>Please provide relevant reports if available</i></p>	YES	NO
<p>and</p>		
<p>6. Has a Myocardial Perfusion Scan or Stress Echo study been undertaken (or planned)?</p> <p>If YES, please give date give details in Section 7</p> <p><i>Please provide relevant reports if available</i></p>	YES	NO
<p>and</p>		

Please go to Section 5G

5g Blood Pressure

This section must be filled in for all patients

1. Is today's best systolic pressure reading 180mm Hg or more?	YES	NO
2. Is today's best diastolic pressure reading 100mm Hg or more?	YES	NO
3. Is the patient on anti-hypertensive treatment?	YES	NO
<p>If YES, to any of the above, please provide three previous readings with dates, if available</p>		
1.	2.	3.

6. General

<p>Please answer all questions in this section. If your answer is 'YES' to any of the questions, please give full details in Section 7.</p>	<p>YES</p>	<p>NO</p>
<p>1. Is there currently a disability of the spine or limbs, likely to impair control of the vehicle?</p>	<p>YES</p>	<p>NO</p>
<p>2. Is there a history of bronchogenic carcinoma or other malignant tumour, for example, malignant melanoma, with a significant liability to metastasise cerebrally?</p> <p>If YES, please give dates and diagnosis and state whether there is current evidence of dissemination</p> <p>(a) Is there any evidence the patient has a cancer that causes fatigue or cachexia that affects safe driving?</p>	<p>YES</p>	<p>NO</p>
<p>3. Is the patient profoundly deaf? If YES, is the patient able to communicate in the event of an emergency by speech or by using a device, e.g. a textphone?</p>	<p>YES</p>	<p>NO</p>
<p>4. Is there a history of either renal or hepatic failure?</p>	<p>YES</p>	<p>NO</p>
<p>5. Is there a history of, or evidence of sleep apnoea syndrome? If YES, please provide details</p> <p>(a) Date of diagnosis</p> <p>(b) Is it controlled successfully?</p> <p>(c) If YES, please state treatment</p> <p>(d) Please state period of control</p> <p>(e) Please provide neck circumference</p> <p>(f) Please provide girth measurement in cms</p> <p>(g) Date last seen by consultant</p>	<p>YES</p>	<p>NO</p>

<p>6. Does the patient suffer from narcolepsy/cataplexy? If YES, please give details in Section 7</p>	<p>YES</p>	<p>NO</p>
<p>7. Is there any other Medical Condition, causing excessive daytime sleepiness?</p> <p>If YES, please provide details</p> <p>(a) Diagnosis</p> <p>(b) Date of diagnosis</p> <p>(c) Is it controlled successfully?</p> <p>(d) If YES, please state treatment</p> <p>(e) Please state period of control</p> <p>(f) Date last seen by consultant</p>	<p>YES</p>	<p>NO</p>
<p>8. Does the patient have severe symptomatic respiratory disease causing chronic hypoxia?</p>	<p>YES</p>	<p>NO</p>
<p>9. Does any medication currently taken cause the patient side effects that could affect safe driving? If YES, please provide details of medication</p>	<p>YES</p>	<p>NO</p>
<p>10. Does the patient have any other medical condition that could affect safe driving? If YES, please provide details</p>	<p>YES</p>	<p>NO</p>
<p>7. Please forward copies of relevant hospital notes only if deemed necessary. Please do not send any notes not related to fitness to drive.</p>		

8. Medical Practitioner Details

To be filled in by Doctor carrying out the examination

Name	Surgery Stamp or GMC Registration Number
Address	
Email address	

Fax number	
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Signature of Medical Practitioner	Date of Examination

9. Patients Details

To be filled in in the presence of the Medical Practitioner carrying out the examination

Your full name	Date of Birth
Your address	Home phone number
	Work/Daytime number
	Email address

Please make sure that you have printed your name and date of birth on each page before sending this form with your application.

10 Patient's consent and declaration

Consent and Declaration

This section **MUST** be filled in and must **NOT** be altered in any way.

Consent and Declaration

I authorise my Doctor(s) and Specialist(s) to release report/medical information about my condition, relevant to my fitness to drive, to West Berkshire Council should the Council believe it necessary, to determine a licence application.

I authorise West Berkshire Council to release medical information to my Doctor(s) and or Specialist(s) about the outcome of my case where appropriate.

I declare that I have checked the details I have given on the enclosed questionnaire and that, to the best of my knowledge and belief, they are correct.

“I understand that it is a criminal offence if I make a false declaration to obtain a driving licence and can lead to prosecution.”

Signature	Date
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Title of Report:	Sex Establishments
Report to be considered by:	Licensing
Date of Meeting:	21 st December 2010
Forward Plan Ref:	

Purpose of Report: To consider the adoption of Section 27 of the Policing and Crime Act 2009

Recommended Action: To adopt

Reason for decision to be taken: The introduction of adoptive provisions that allow authorities to regulate lap dancing clubs and similar venues

Other options considered: Non adoption

Key background documentation: Policing and crime Act 2009, Local Government (Miscellaneous Provisions) Act 1982

The proposals contained in this report will help to achieve the following Council Plan Priority(ies):

- CPP1 – Support our communities through the economic downturn** – to alleviate the impact on different communities and individuals who find themselves out of work and/or disadvantaged
- CPP2 – Raise levels of educational achievement** – improving school performance levels
- CPP3 – Reduce crime and the fear of crime**

The proposals will also help achieve the following Council Plan Theme(s):

- CPT1 - Better Roads and Transport**
- CPT2 - Thriving Town Centres**
- CPT3 - Affordable Housing**
- CPT4 - High Quality Planning**
- CPT5 - Cleaner and Greener**
- CPT6 - Vibrant Villages**
- CPT7 - Safer and Stronger Communities**
- CPT8 - A Healthier Life**
- CPT9 - Successful Schools and Learning**
- CPT10 - Promoting Independence**
- CPT11 - Protecting Vulnerable People**
- CPT12 - Including Everyone**
- CPT13 - Value for Money**
- CPT14 - Effective People**
- CPT15 - Putting Customers First**
- CPT16 - Excellent Performance Management**

The proposals contained in this report will help to achieve the above Council Plan Priorities and Themes by:
 Ensuring that sex encounter establishments are regulated thus protecting users of these establishments and the public at large.

Portfolio Member Details	
Name & Telephone No.:	Councillor Hilary Cole - Tel (01635) 248542
E-mail Address:	hcole@westberks.gov.uk
Date Portfolio Member agreed report:	01 December 2010

Contact Officer Details	
Name:	Brian Leahy
Job Title:	Senior Licensing Officer
Tel. No.:	01635
E-mail Address:	bleahy@westberks.gov.uk

Implications

- Policy:** The Council has a policy for the regulation and licensing of Sex Shops and Sex Cinemas.
- Financial:** None
 If there are any financial implications contained within this report this section **must** be signed off by a West Berkshire Group Accountant. Please note that the report cannot be accepted by Policy and Communication unless this action has been undertaken.
- Personnel:** None
- Legal/Procurement:** This is an adoptive provision and is therefore not a statutory requirement. However if the proposal is approved section 27 will become a legal licensing requirement.
- Property:** None
- Risk Management:** None
- Equalities Impact Assessment:** EIA carried out
 Where a decision is required, Policy and Communication are not able to accept your report without an EIA being completed. These should be sent to P&C along with your report and should be copied to the Principal Policy Officer (Equality & Diversity). For advice please contact Principal Policy Officer (Equality & Diversity) on Ext. 2441.
- Corporate Board's Recommendation:** To be completed after the Corporate Board meeting.

NOTE: The section below does not need to be completed if your report will not progress beyond Corporate or Management Board.

Is this item subject to call-in?	Yes: <input type="checkbox"/>	No: <input type="checkbox"/>
---	-------------------------------	------------------------------

If not subject to call-in please put a cross in the appropriate box:

- | | |
|--|-------------------------------------|
| The item is due to be referred to Council for final approval | <input checked="" type="checkbox"/> |
| Delays in implementation could have serious financial implications for the Council | <input type="checkbox"/> |
| Delays in implementation could compromise the Council's position | <input checked="" type="checkbox"/> |
| Considered or reviewed by Overview and Scrutiny Commission or associated Task Groups within preceding six months | <input type="checkbox"/> |
| Item is Urgent Key Decision | <input checked="" type="checkbox"/> |

Executive Summary

1. Introduction

1.1 This report advises members of the introduction of section 27 of the Policing and Crime Act 2009. The Act introduces adoptive provisions to allow local authorities to regulate lap dancing clubs and similar venues (Sex Entertainment Venues – SEV's) under the Local Government (Miscellaneous Provisions) Act 1982 Section 2 Schedule 3: Control of Sex Establishments, which already regulates sex shops and sex cinemas.

1.2 Sexual entertainment venues are defined as “any premises at which relevant entertainment is provided for a live audience for financial gain of the organiser or performer”.

1.3 The meaning of relevant entertainment is “any live performance or live display of nudity which is of such a nature that, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means)”.

1.4 In summary, Schedule 3 :

- Allows local people to oppose an application for a sex establishment licence if they have legitimate concerns that a lap dancing club, or similar would be inappropriate given the character of an area because, for example, the area was primarily a residential area.
- Requires licences to be renewed at least yearly, again local people can raise objections.
- Allows the authority to reject a licence application if it believes that to grant a licence for a lap dancing club or similar would be inappropriate given the character of a particular area.
- Allows the authority to set a limit on the number of SEV's that it thinks is appropriate for the area (locality).
- Allows the authority to impose a wider range of conditions on the licences of lap dancing clubs or similar, than it is currently able to do under the Licensing Act 2003.

2. Proposals

2.1 To adopt the provisions of section 27.

3. Conclusion

3.1 If section 27 is not adopted the Council will have no legislative means to control SEV's.

Executive Report

1. Introduction

- 1.1 At a meeting of the (then) Environmental Services Committee on 28th May 1983 the Committee resolved to adopt the provisions of the Local Government (Miscellaneous provisions) Act 1982 Section 2 Schedule 3 – Control of Sex Establishments.
- 1.2 This effectively meant that sex establishments, (cinemas or shops) could be regulated by licence, and conditions attached to a licence.
- 1.3 For member information definitions of the above are as follows;
- 1.3.1 “Sex Cinema”: means any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced which –
- a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage –
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity; or
 - b) are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions,
but does not include a dwelling house to which the public is not admitted.
- 1.3.2 “Sex Shop” and “Sex Article” means any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating –
- a) sex articles; or
 - b) other things intended for the use in connection with, or for the purpose of stimulating or encouraging –
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity.
- 1.4 The Council may, within its district, grant to any applicant, and from time to time renew, a licence under Schedule 3 for the use of any premises, vehicle, vessel or stall specified in it for a sex establishment on such terms and conditions and subject to such restrictions as may also be specified.

2. Procedures for Adoption

- 2.1 The Council cannot effect any licensing controls on SEV's unless it first adopts the provisions of section 27. The adoption procedure is as follows:
- Resolution by full council to adopt
 - Date of commencement specified, at least one month ahead
 - Notice published in local newspaper for 2 consecutive weeks
 - First publication no later than 28 days before the date of commencement
 - Notice to state effect of resolution
- 2.2 If the Council adopt these provisions, transitional arrangements will apply to already existing SEV's, giving them up to 1 year to apply from the date of adoption. West Berkshire currently has no SEV's.
- 2.3 Any new premises will require to be licensed under the Act before they can legally operate.

3. Policy

- 3.1 Full Council adopted conditions for sex establishments on 4th December 1997. These conditions still lawfully apply and due to no licences ever being issued are unchallenged.
- 3.2 Officers are of the opinion that the current conditions are fit for purpose and if section 27 is adopted, they can be added to cover appropriate conditions which would be necessary to regulate SEV's.
- 3.3 There is no legal reason to adopt the provisions of section 27 however, if not adopted the Council cannot regulate such premises other than through the Premises Licence required under the Licensing Act 2003.
- 3.4 The Act provides for a council to determine the numbers of SEV's that it considers appropriate within its area. This could be a matter for fuller internal debate once a decision has been taken whether to adopt or not.

4. Options

- 4.1 The Council can adopt section 27 without choosing to carry out a consultation however it cannot choose not to adopt without first considering the views of local people. If the option to not adopt is considered, consultation must be carried out before 5th April 2011.

5. Recommendation

- 5.1 Officers recommend that the Council adopt the provisions of section 27 without public consultation as it is an extension of the already adopted provisions for sex establishments. If Members approve this report then the matter will be referred to full Council for adoption.

Appendices

There are no Appendices to this report.

Consultees

Local Stakeholders: None at this time

Officers Consulted: Paul Anstey

Trade Union: None

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Title of Report:	Street Trading Consent
Report to be considered by:	Licensing
Date of Meeting:	21 st December 2010
Forward Plan Ref:	

Purpose of Report: To consider updating the Council's Street Trading Consent Policy and Authorisation

Recommended Action: Item for information at this time with approval to carry out further consultation.

Reason for decision to be taken: Changes to some parish boundries have affected the policy and authorisation and are therefore required to be reassessed.

Other options considered: None

Key background documentation: None

The proposals contained in this report will help to achieve the following Council Plan Priority(ies):

- CPP1 – Support our communities through the economic downturn** – to alleviate the impact on different communities and individuals who find themselves out of work and/or disadvantaged
- CPP2 – Raise levels of educational achievement** – improving school performance levels
- CPP3 – Reduce crime and the fear of crime**

The proposals will also help achieve the following Council Plan Theme(s):

- CPT1 - Better Roads and Transport**
- CPT2 - Thriving Town Centres**
- CPT3 - Affordable Housing**
- CPT4 - High Quality Planning**
- CPT5 - Cleaner and Greener**
- CPT6 - Vibrant Villages**
- CPT7 - Safer and Stronger Communities**
- CPT8 - A Healthier Life**
- CPT9 - Successful Schools and Learning**
- CPT10 - Promoting Independence**
- CPT11 - Protecting Vulnerable People**
- CPT12 - Including Everyone**
- CPT13 - Value for Money**
- CPT14 - Effective People**
- CPT15 - Putting Customers First**
- CPT16 - Excellent Performance Management**

The proposals contained in this report will help to achieve the above Council Plan Priorities and Themes by:
 Ensuring that street trading within West Berkshire is carried out only by persons holding a valid permit and operating in areas which are not prohibited.

Portfolio Member Details	
Name & Telephone No.:	Councillor Hilary Cole - Tel (01635) 248542
E-mail Address:	hcole@westberks.gov.uk
Date Portfolio Member agreed report:	

Contact Officer Details	
Name:	Brian Leahy
Job Title:	Senior Licensing Officer
Tel. No.:	01635 42400
E-mail Address:	bleahy@westberks.gov.uk

Implications

Policy:	The Council adopted a policy circa 1992. Since then there have been numerous slight changes of parish boundaries which need to be addressed
Financial:	None If there are any financial implications contained within this report this section must be signed off by a West Berkshire Group Accountant. Please note that the report cannot be accepted by Policy and Communication unless this action has been undertaken.
Personnel:	None
Legal/Procurement:	The provisions of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 have been adopted however border changes now mean that some parts of the district may be exempted from trading unreasonably.
Property:	None
Risk Management:	None
Equalities Impact Assessment:	EIA carried out Where a decision is required, Policy and Communication are not able to accept your report without an EIA being completed. These should be sent to P&C along with your report and should be copied to the Principal Policy Officer (Equality & Diversity). For advice please contact Principal Policy Officer (Equality & Diversity) on Ext. 2441.
Corporate Board's Recommendation:	To be completed after the Corporate Board meeting.

NOTE: The section below does not need to be completed if your report will not progress beyond Corporate or Management Board.

Is this item subject to call-in?	Yes: <input type="checkbox"/>	No: <input type="checkbox"/>
<p>If not subject to call-in please put a cross in the appropriate box:</p> <p>The item is due to be referred to Council for final approval <input type="checkbox"/></p> <p>Delays in implementation could have serious financial implications for the Council <input type="checkbox"/></p> <p>Delays in implementation could compromise the Council's position <input type="checkbox"/></p> <p>Considered or reviewed by Overview and Scrutiny Commission or associated Task Groups within preceding six months <input type="checkbox"/></p> <p>Item is Urgent Key Decision <input type="checkbox"/></p>		

Executive Summary

1. Introduction

1.1 The Local Government (Miscellaneous Provisions) Act 1982 (the Act) Schedule 4 is the appropriate legislation for allowing a District Council to resolve that any street in its district be designated;

a) a prohibition street;

b) a licence street; or

c) a consent street

for the purposes of street trading.

1.2 By virtue of a resolution of the (then) Housing and Environmental Services Committee at a meeting held on the 16th June 1992, with effect from the 1st October 1992 all streets situated within the area administered by the Council and not already subject to street trading control were designated as Consent Streets in accordance with the provisions of paragraph 2 of the Act. At the same time a number of Prohibition Streets were determined.

1.3 Due to some slight changes in parish boundaries over the years it has become obvious that areas that were originally within prohibition streets are now located in areas which are consent streets.

2. Proposals

2.1 It is now seen as appropriate by officers, for a re-appraisal of the Council's policy to re-adopt Schedule 4 of the Act with parish boundaries being identified and corrected and to confirm those areas, identified through consultation with interested parties and in accordance with para 2 of section 3, schedule 4, as either consent streets or prohibition streets.

3. Conclusion

3.1 A re-adoption of the Act and thus the re-drafting of the Council's policy would ensure that traders wishing to operate within the district would have a definitive knowledge of which areas are consent streets, thus requiring a formal consent from the Council, and which areas are prohibited.

Executive Report

1. Introduction

- 1.1 Street trading consents are required for any person wishing to trade in any goods within the district of the Council other than;
- a) trading by a person acting as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871;
 - b) anything done in a market or fair the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of an enactment or order.
 - c) Trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980;
 - d) Trading as a news vendor;
 - e) Trading which
 - (i) is carried on at a premises used as a filling station; or
 - (ii) is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop;
 - f) selling things, or offering or exposing them for sale, as a roundsman;
 - g) the use for trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, in or over a highway;
 - h) the operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980;
 - i) the doing of anything authorised by regulations made under section 5 of the Police, Factories, etc (Miscellaneous Provisions) Act 1916.

2. Current Situation

- 2.1 Street trading within West Berkshire is carried out under the provisions provided for street trading consents and where any trader remains static, planning permission is required.
- 2.2 There are currently 19 static traders operating with consents and 9 which operate by trading from location to location. The latter type of traders are generally ice cream vendors and sandwich/snack providers.
- 2.3 There are "Prohibited Streets" where street trading is illegal. These are all of the motorway service areas along the M4 and the former parish of Theale.
- 2.4 Theale Parish was determined a prohibition street (Zone) at the request of the Parish Council in 1992 and has remained so to this day.

- 2.5 Since 1992 there have been a number of boundary changes to parishes along the A4 to the east of the district and this has brought about some confusion as to exactly where the Theale prohibition zone extends to.
- 2.6 Officers have carried out some consultation with parish councils which border the A4 as to whether or not those Parish Council's wish to allow street trading or not.
- 2.7 This initial consultation has resulted in a number of differing views. It is the opinion of officers that perhaps the time is now right to extend this consultation to all Parish and Town Councils with a view to re-adopting Schedule 4 and clarifying exactly which parts of the District are acceptable for the issuing of Street Trading Consents, either static or mobile.

3. Conclusion

- 3.1 Members are asked to consider the option of re-adopting Schedule 4 following consultation with all Parish and Town Councils.
- 3.2 If these proposals are agreed a report will be brought back to this Committee during 2011 with a view to having a re drafted policy submitted to Council for approval.

There are no Appendices to this report.

Consultees

Local Stakeholders: Town and Parish Councils

Officers Consulted: Paul Anstey

Trade Union: None