

Notice of Meeting



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Licensing Committee

Monday, 10 July 2023 at 4.30pm
in Council Chamber Council Offices
Market Street Newbury

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Date of despatch of Agenda: Friday, 30 June 2023

For further information about this Agenda, or to inspect any background documents referred to in Part I reports, please contact Ben Ryan (Democratic Services Officer) on (01635) 503929
e-mail: Benjamin.Ryan1@westberks.gov.uk

Further information and Minutes are also available on the Council's website at www.westberks.gov.uk



To: Councillors Phil Barnett (Chairman), Paul Dick (Vice-Chairman), Nick Carter, Billy Drummond, Nigel Foot, Owen Jeffery, Paul Kander, Jane Langford, Stephanie Steevenson, Louise Sturgess, Clive Taylor and Martha Vickers

Agenda

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Agenda - Licensing Committee to be held on Monday, 10 July 2023 *(continued)*

Sarah Clarke.

Sarah Clarke
Service Director – Strategy and Governance

If you require this information in a different format or translation, please contact Ben Ryan (Democratic Services Officer) on telephone (01635) 503973.



West Berkshire
C O U N C I L

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Licensing Committee –10 July 2023

Item 1 – Apologies for absence

Verbal Item

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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, 23 JANUARY 2023

Councillors Present: Phil Barnett (Vice-Chairman), Graham Bridgman, James Cole (Chairman), Billy Drummond, Clive Hooker, Tony Linden, and Graham Pask

Councillors Present Remotely: Jeff Beck and David Marsh

Also Present: Stephen Chard (Zoom Host), Moira Fraser (Principal Officer - Policy & Governance), Julia O'Brien (Principal Licensing Officer), Vikki Rigden (Licensing Officer), Benjamin Ryan (Clerk) and Amanda Ward (Licensing Officer)

Apologies for inability to attend the meeting: Councillor Adrian Abbs, Councillor Steve Ardagh-Walter and Councillor Martha Vickers

PART I

17. Minutes

The Minutes of the meeting held on 7 November 2022 were approved as a true and correct record and signed by the Chairman.

18. Declarations of Interest

There were no declarations of interest received.

19. Update Following Discussions at the Taxi and Private Hire West Berkshire Council Liaison Group

It was proposed by Councillor Graham Bridgman that the meeting be moved to the Roger Croft Room due to the unfit temperature of the Council Chamber and this was seconded by Councillor Phil Barnett.

The Committee **RESOLVED** that the meeting be moved to the Roger Croft Room.

The Committee considered the report (Agenda Item 4) concerning the Taxi and Private Hire West Berkshire Council Liaison Group that met on 9 January 2023 and discussed tariffs for the 2023/24 financial year following the statutory fee consultation. Ms Moira Fraser in introducing the item commented that it was a well-attended and productive meeting.

In terms of tariffs, the trade proposed that the Council align tariff setting to the financial year to assist them with planning. This would mean the Council would undertake an initial discussion on tariffs in October so tariffs could be implemented by 1 April each year as of 2024. It was also suggested that tariffs be linked to the Consumer Price index (CPI).

The Committee **RESOLVED** to note the report.

20. Consultation Responses: Fees for Taxi and Private Hire Vehicles, Drivers and Operators

The Committee considered the report (Agenda Item 5) concerning the consultation responses for the fees for Taxi and Private Hire Vehicles, Drivers and Operators.

Ms Fraser introduced the report by noting that the statutory consultation ran from 17 November 2022 to 15 December 2022. Notices were put in the local newspapers, emailed to taxi drivers, placed on both the PPP and West Berkshire Council consultation pages, emailed to the Community Panel and placed in Market Street Reception.

The consultation managed to garner four responses, with one comment that showed concern over higher fees potentially resulting in higher tariffs and two supporting the increase. The final response raised some concerns about the content of the knowledge test and supported the remittance being offered in relation to electric and hybrid vehicles.

As no objections were received, the fees were to be included in the budget paperwork and would come into effect 1 April 2023.

Councillors Bridgman and Tony Linden noted that it was good to have responses.

The Committee **RESOLVED** to note the report.

21. Hackney Carriage Tariffs 2023

The Committee considered the report (Agenda Item 6) concerning a request from the trade for modifications to the existing tariffs which were raised at the January 2023 Taxi Liaison Group. The Committee was asked to comment on the proposed methodology and timescales for any ensuing consultation process.

Ms Fraser introduced the item by stating that in line with the agreed procedures, an initial discussion with the trade about tariffs took place at the January Liaison Group meeting.

Ms Fraser explained that the trade proposed that they would like to see an increase linked to CPI, which was running at about 10.7% in November 2022. The trade also would like to see an uplift in the fouling charges. They also asked that Members consider amending the wording related to the applicability of tariffs to take into consideration journeys that spanned more than one tariff. The trade also stated that they would like to mandate the use of card facilities in the new policy and the introduction of time and calendar-controlled meters.

The Chairman highlighted that it was not the intention to begin a statutory consultation unless there was a full proposal from the trade and Ms Fraser explained that this was up to Members. However, this was what had been suggested at previous meetings including the January 2023 meeting. Councillor Bridgman noted that the fouling charge was proposed as a maximum and he wanted to understand how any issues between taxi drivers and the individual who had soiled the taxi would be resolved. He also wanted to understand what role West Berkshire Council would have, if any, in resolving these disputes. Councillor Bridgman also enquired if the Council was to get involved whether this would go through an Appeals Panel or a Licensing Sub-Committee. Councillor Bridgman did note that the Appeals Panel would give more flexibility as it allowed for four Members, instead of three.

Councillor Barnett raised concerns over what constituted 'major' soiling, how the driver would identify the individual and how this would be investigated by a panel, as these factors could lead to a complicated investigation.

LICENSING COMMITTEE - 23 JANUARY 2023 - MINUTES

Councillor Graham Pask agreed that a dispute should go through a Licensing Sub-Committee and he supported the increase to the maximum fouling charge.

Councillor Bridgman re-iterated that he wanted to understand the role of the Council and what role it had if there was one, as, in the case of soiling charges, he was of the view that this was probably a civil matter.

Councillor Clive Hooker wanted to know whether the Scheme of Delegation would need to be amended to reflect responsibilities associated with disputes over fouling charges and the taxi policy more generally. Councillor Bridgman agreed that these changes would be needed. Ms Fraser stated that the Taxi Policy report would include recommendations around amendments to the Scheme of Delegation.

Ms Fraser stated that it was up to Council to determine where these matters would be determined, but it would make sense for the Licensing Sub-Committee to deal with the license issues. She would seek legal advice but it was likely that disputes around fouling charges would be a civil matter and would therefore sit between the taxi company and the individual.

Julia O'Brien agreed that it would be beneficial for the Council to look at what other Councils did and discuss the way forward with legal to set the criteria.

Ms O'Brien explained that Licensing were in the process of finalising the policy so the team could look into implementing this.

Councillor Bridgman believed that the licensing appeals process should be explored further.

In response to a question of clarification from Councillor Jeff Beck, Ms Fraser explained that passengers would be able to pay for their taxi using either debit or credit cards or other forms of electronic payment

Councillor Linden believed that the use of credit and debit cards was a good thing. The Councillor expressed that if there were no major changes, the consultation period should be shorter to allow for the introduction of the fees in time for April. It was noted that there were statutory requirements around the consultation timescales i.e. a minimum of 14 days.

Councillor Pask supported the implementation of card machines as long as there remained a cash payment option.

Councillor Hooker asked about the flag rate and whether the residents would be aware that the tariffs had been increased after the set fee and stressed that the trade should inform passengers when they got in to the vehicle. Councillor Bridgman replied that the flag rate had stayed the same (with increased increments), however, the distance of the flag rate had changed. It was noted that the wording around applicability on the tariff table would need to change to reflect that the tariff might change during the journey.

Councillor Bridgman sympathised with the trade but explained that it would be hard to bring these tariffs out before 1 April this year, as they would need to go through the Executive, making it difficult to finalise in time. The Councillor also emphasised how the Council's communications needed to guarantee all involved would be aware of the changes. Councillor Bridgman also stated that it was difficult to come forward with these tariffs without the proposal from the trade. Finally, the Councillor agreed that the calendar-controlled meters should be implemented, as well as the introduction of the cards, although there were several coverage issues in the district.

LICENSING COMMITTEE - 23 JANUARY 2023 - MINUTES

Councillor Barnett pointed out that not all businesses took every card and Councillor Pask suggested just mandating acceptance of Visa and MasterCard.

Councillor Marsh pointed out that most places accepted card payments and customers did not always carry cash.

The Committee **RESOLVED** to note the report.

22. **New Section 182 Guidance Under the Licensing Act 2003**

The Committee considered the report (Agenda Item 7) concerning the revised Guidance issued by the Secretary of State in December 2022 under Section 182 of the Licensing Act 2003.

Ms Fraser introduced the report by explaining that The Home Office issued revised s182 guidance on the 20 December 2022. Licensing authorities were required to consider the guidance in relation to the carrying out of their functions under the 2003 Act. Members were asked whether they had any specific queries in regards to the changes.

Councillor Bridgman raised concerns over the terminology in the guidance over existing alcohol licenses in regards to home delivery where paragraph 4.5 should state 'should' and not 'may', which would bring it in line with national guidance. It was seen as imperative that the business informed the Council. Councillor Linden expressed that this would affect several businesses and these business might not be aware of the requirement. It was the expectation that for alcohol deliveries, the provider would request identification as and when necessary.

Councillor Bridgman explained that there had always been an issue over whether it was advisable to apply for the license before planning permission for a premises was granted or the other way around. The Councillor was also unsure how a new development could affect existing buildings and how the planning authority could be expected to enforce the necessary standards. The Chairman provided the example of how a new development, closely located to a busy and loud public house could lead to complaints about the public house, therefore affecting the existing development.

Councillor Pask queried the relevance of Councillor Bridgman's concerns to this meeting and Councillor Bridgman explained that he was preempting any potential issues with the guidance.

Councillor Pask asked whether the Planning Authority was aware of this and Ms Fraser explained they were a statutory consultee.

Councillor Bridgman also raised issues over the formatting of the guidance where it mentioned four points being made but two of the four were combined making it unclear. Ms Fraser commented that this was a matter for the Home Office to resolve.

The Chairman questioned what substantial change meant and Ms Fraser explained that, as was currently the case, each application would be evaluated on its own merits and where there were any queries legal advice would be sought. The guidance was binding on all Licensing Authorities and to depart from the guidance could give rise to an appeal or judicial review. Therefore any reasons for departure needed to be given clearly when decisions were made. The Chairman commented that it was therefore imperative that Members were aware of the guidance and its content.

The Committee **RESOLVED** to note the report.

LICENSING COMMITTEE - 23 JANUARY 2023 - MINUTES

23. **Forward Plan**

The Committee considered the Forward Plan (Agenda Item 8)

The Chairman explained that there would be a special Licensing Committee Meeting on the 20 March 2023.

Councillor Bridgman asked whether they needed to plan for the Hackney Carriage Tariffs to come back to the Committee and Moira Fraser explained that this would be added if the Taxi Trade came back to the Council with a proposal.

Councillor Linden asked when the dates for next year’s meetings would be released and Stephen Chard explained that they would be brought to the 16 March Council meeting.

The Committee **RESOLVED** to note the report.

(The meeting commenced at 4.30 pm and closed at 5.29 pm)

CHAIRMAN

Date of Signature

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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 THURSDAY, 25 MAY 2023

Councillors Present: Paul Dick, Billy Drummond, Nigel Foot, Owen Jeffery, Paul Kander, Jane Langford, Stephanie Steevenson, Louise Sturgess, Clive Taylor and Martha Vickers

Also Present: Sarah Clarke (Monitoring Officer), David Cook (Principal Democratic Services Officer)

Apologies for inability to attend the meeting: None Received

PART I

1. Election of the Chairman

RESOLVED that Councillor Phil Barnett be elected as Chairman for the 2023/2024 Municipal Year.

2. Election of the Vice-Chairman

RESOLVED that Councillor Paul Dick be appointed as Vice-Chairman for the 2023/2024 Municipal Year.

(The meeting commenced at 8.02 pm and closed at 8.04 pm)

CHAIRMAN

Date of Signature

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Licensing Committee –10 July 2023

Item 3 – Declarations of Interest

Verbal Item

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Statement of Licensing Policy – Review and Consultation

Committee considering report:	Council
Date of Committee:	Licensing Committee – 10 July 2023 (Pre-Consultation) Licensing Committee – 06 November 2023 (Post-Consultation) Council 30 November 2023 (For Adoption)
Portfolio Member:	Councillor Lee Dillon
Date Head of Service agreed report:	13 June 2023
Date Portfolio Member agreed report:	22 June 2023
Report Author:	Julia O'Brien
Forward Plan Ref:	C4253

1 Purpose of the Report

- 1.1 To provide the Licensing Committee with an opportunity to review the draft consultation document, prior to it being consulted on. Full Council will be asked to adopt the Policy post consultation.
- 1.2 To seek authority to consult on the Council's Draft Statement of Licensing Policy (SLP) in accordance with the Licensing Act 2003.

2 Recommendations

- 2.1 It is recommended that the Licensing Committee approves for consultation the draft Licensing Policy produced at Appendix A to the report.

3 Implications and Impact Assessment

Implication	Commentary
Financial:	<p>There are no financial implications arising from the review of the SLP. All costs associated with the consultation will be met from within existing budgets.</p> <p>The fees with respect to these licences are set by law. Recent years have seen a decline in licensing income as the numbers</p>

Statement of Licensing Policy – Review and Consultation

	<p>of licensed premises has reduced. This decline in income has been highlighted through the budget setting process for the Public Protection Partnership and a review of the Licensing Team and discretionary fee structure is one of the agreed priorities for this financial year.</p>
Human Resource:	<p>There are no specific personnel implications arising from this report.</p>
Legal:	<p>West Berkshire Council is required to prepare and publish a Statement of Licensing Policy (SLP) every five years in accordance with section 5 of the Licensing Act 2003 ('the Act'). The SLP outlines the general approach of the Licensing Authority when making licensing decisions under the Act and its policy with respect to the exercise of its licensing functions. Section 5 (4) of the Act provides that during each five year period a licensing authority must keep its policy under review and make such revisions to it, at such times, as it considers appropriate.</p> <p>The current SLP was previously agreed by full Council on the 6th December 2018. To comply with the five year period set out within section 5 of the Licensing Act 2003, this document must be reviewed, consulted on, revised and re-published by the 5th December 2023.</p> <p>Section 5 (3) of the Act sets out the statutory requirements in terms of consultation before determining the revised SLP.</p> <p>The SLP should also be considered alongside the current revised Section 182 guidance issue in December 2022.</p> <p>The references to the constitution and decision making within the revised version of the SLP have been updated.</p> <p>Patricia Brown and Beth Varcoe have been consulted on proposed changes to the current policy.</p>
Risk Management:	<p>There are no specific risk matters arising from the adoption of this SLP. A risk would arise should the Council fail in its statutory duty to consider, adopt and publish a current SLP.</p>
Property:	<p>None</p>
Policy:	<p>The policy and its subsequent review is required in order to comply with the Licensing Act 2003.</p>

Statement of Licensing Policy – Review and Consultation

	Positive	Neutral	Negative	Commentary
Equalities Impact:				
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		x		<p>The consultation will be undertaken in accordance with the Council's Consultation Policy and we will ensure that we take all reasonable steps to ensure that directly affected and interested parties are made aware of the consultation and notified of how they can participate.</p> <p>Any comments received during the consultation, including those relating to equalities, will be reported back to the Licensing Committee.</p>
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		x		<p>The Council is not in a position where it can proactively affect the profile of licence holders but the policy ensures that the process of obtaining a licence is fair and free of discrimination.</p> <p>The policy does not give any particular group priority over another in relation to implementation of the policy and how each applicant is dealt with. The Act requires that each application is assessed on its individual merits so all groups should be treated equally.</p>
Environmental Impact:	x			<p>Section 10 of the draft policy addresses the issue of cumulative impact and the impact that a concentration of licensed premises in an area can have on the licensing objectives.</p>

Health Impact:	x			Although public health is not a licensing objective the Public Health Team will be consulted on the draft policy and health data can be used to identify the impact of premises on the licensing objectives.
ICT Impact:		x		The Consultation will be posted on the Consultation Hub as well as the Public Protection Partnership website.
Digital Services Impact:		x		The Consultation Hub will be used to support the consultation.
Council Strategy Priorities:				The Policy will support the following council priorities: <ul style="list-style-type: none"> • Support businesses to start, develop and thrive in West Berkshire • Ensure our vulnerable children and adults achieve better outcomes
Core Business:				It is a statutory requirement for the Council to have an up to date SLP in place.
Data Impact:				All consultation will be undertaken in accordance with the PPP's privacy statement .
Consultation and Engagement:	<p>The list of consultees is set out in paragraphs 4.7 and 4.8 of the report. The proposed methodology is set out in paragraphs 5.1 to 5.4.</p> <p>The Council's Resource Consultation and Performance Team are being consulted, have assisted with drafting the consultation questionnaire and will assist with uploading the consultation documents onto the Council's Consultation Hub.</p>			

4 Introduction and Background

4.1 The [Licensing Act 2003](#) (hereafter called the Act) regulates licensable activity in England and Wales. These activities are:

- Sale/supply of alcohol;

Statement of Licensing Policy – Review and Consultation

- Late Night Refreshment (i.e. provision of hot food or drink between 23h00 and 05h00);
- Regulated entertainment (e.g. a performance of live and recorded music, plays, films, indoor sporting events).

4.2 Businesses and individuals who want to carry out licensable activities must apply to their local authority, in this case West Berkshire Council via the Public Protection Partnership, for permission to do so. Permission is usually granted in the form of a licence. The 2003 Act provides for four different types of authorisation or permission, as follows:

- Premises Licence – to use premises for licensable activities.
- Club Premises Certificate – to allow a qualifying club to engage in qualifying club activities as set out in Section 1 of the Act.
- Temporary Event Notice (TEN) – notice of intention to carry out licensable activities at a temporary event.
- Personal Licence – to sell or authorise the sale of alcohol from premises in respect of which there is a premises licence.

4.3 Applications for licences must demonstrate that they will promote the four licensing objectives which are:

- Prevention of Crime and Disorder;
- Public Safety;
- Prevention of Public Nuisance; and
- Protection of Children from Harm.

4.4 Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.

4.5 The Section 182 Guidance however confirms that the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include:

- (a) protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
- (b) giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;
- (c) recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
- (d) providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and

Statement of Licensing Policy – Review and Consultation

- (e) encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.
- 4.6 West Berkshire Council is required to prepare and publish a Statement of Licensing Policy (SLP) every five years in accordance with section 5 of the Act. The Statement of Licensing Policy outlines the general approach of the Licensing Authority when making licensing decisions under the Act and can be reviewed and revised by the Authority at any time. The current SLP was published in December 2018, so must be reviewed and republished by December 2023 at the latest.
- 4.7 Before determining the policy for any five year period, the licensing authority must consult the persons listed in section 5(3) of the Licensing Act 2003 namely:
- The chief officer of police for the area;
 - The fire and rescue authority for the area;
 - Persons or bodies representative of holders of local personal licences, premises licences and club premises certificates;
 - Persons or bodies representative of businesses and residents in its area.
- 4.8 The views of all consultees should be given appropriate weight when the policy is determined. Beyond the statutory requirements, it is for the licensing authority to decide the full extent of its consultation. Details of proposed consultees are set out below. The Licensing Committee is asked to identify any additional bodies or individuals that they believe should be consulted.
- Alcoholics Anonymous
 - Association of Convenience Stores
 - Association of Licensed Multiple Retailers
 - Berkshire West Safeguarding Children's Partnership
 - Bingo Association
 - British Amusement Catering Trade Association
 - British Beer and Pub Association
 - British Institute of Innkeeping
 - British Retail Consortium
 - Building Communities Together Team
 - Federation of Licensed Victuallers
 - Guild of Master Victuallers
 - Health and Safety Executive
 - Home Office – Immigration Enforcement
 - Local residents (via the Consultation Hub and Community Panel)
 - Parish and Town Councils
 - Premises licence and club premises certificate holders
 - Pubwatch
 - Royal Berkshire Fire and Rescue Service
 - Thames Valley Police
 - Via (Charity that provides free and confidential advice and support to help service users manage, reduce or stop their drug or alcohol use)
 - The British Pub Confederation

Statement of Licensing Policy – Review and Consultation

- West Berkshire Councillors
- West Berkshire Council Environmental Health
- West Berkshire Council Planning
- West Berkshire Council Public Health Team
- West Berkshire Council Trading Standards
- West of Berkshire Safeguarding Adults Board

4.9 It should be noted that it is a stated objective of the PPP to reduce duplication and derive efficiency from economies of scale. This draft policy has therefore been drafted taking into consideration the Bracknell Forest Council iteration of the policy. Licensing has however remained as a function of the individual partner authorities and therefore the processes and terminology used reflects those of West Berkshire.

4.10 Significant changes were made to the current iteration of the policy when it was adopted in December 2018. This iteration of the report includes some minor formatting and typographical changes. The key changes relate to the matters below and are set out in more detail in Appendix B to the report:

- Agent of Change Principles;
- Amendments to Temporary Event Notices in line with legislative changes;
- Reference to current initiatives/ campaigns to safeguard customers in licensed premises;
- Updated delegations as agreed by the Committee on [08 November 2021](#).

5 Proposals

5.1 It is proposed that Officers write to the bodies listed in paragraph 4.8 above to seek their views and comments on the draft policy, subject to the inclusion of any additional bodies identified by the Licensing Committee at this meeting.

5.2 In addition a consultation document will be placed on the Consultation and Engagement Hub and a link to this consultation will be included on the PPP website.

5.3 It is proposed that the draft policy should be subjected to a ten week consultation period starting on the 12 July 2023 and running until the 20 September 2023. This extended consultation period is proposed due to the fact that it will fall over the summer holiday period. The consultation will be promoted on the Public Protection Partnership's social media channels and via a press release.

5.4 The outcome of the consultation and any proposed revisions to the draft policy will be brought to the 06 November 2023 Licensing Committee for discussion. The Committee will then be asked to recommend to full Council (30 November 2023) that the policy be adopted subject to any modifications agreed at the meeting and any proposed at full Council.

6 Other options considered

6.1 To comply with the Licensing Act 2003 a Statement of Licensing Policy must be published so there is no alternative.

7 Conclusion

7.1 The Licensing Act 2003 requires West Berkshire Council to determine and publish its Statement of Licensing Policy at least every five years. The Council must have reviewed the current policy by December 2023. We welcome comments and feedback from residents, businesses, stakeholders and partners on the proposed changes.

8 Appendices

8.1 Appendix A – Draft Statement of Licensing Policy

8.2 Appendix B – Summary of the Changes Made to this iteration of the report.

9 Background Papers:

- Licensing Act 2003
- S182 Guidance

Subject to Call-In:

Yes: No:

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 type="checkbox"/>
Considered or reviewed by Overview and Scrutiny Management Committee or associated Task Groups within preceding six months	<input type="checkbox"/>
Item is Urgent Key Decision	<input type="checkbox"/>
Report is to note only	<input type="checkbox"/>

Wards affected: All

Officer details:

Name: Julia O'Brien
Job Title: Licensing Manager
Tel No: 01635 519894
E-mail: Julia.O'Brien@westberks.gov.uk

Draft Statement of Licensing Policy

Licensing Act 2003

Document Control

Document Ref:	C3431	Date Created:	13 March 2018
Version:	1.3	Date Modified:	10 July 2023
Revision due	December 2028		
Author:	Licensing Team	Sign & Date:	10 July 2023
Owning Service	Public Protection Partnership		
Equality Impact Assessment: (EIA)	Date undertaken:	10 July 2023	
	Issues (if any):	None	



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1. Introduction, Purpose and Scope

- 1.1 The [Licensing Act 2003](#) ('the Act') requires West Berkshire District Council ('the Council'), as the Licensing Authority, to publish a 'Statement of Licensing Policy' ('policy') every five years. In creating this policy, the Licensing Authority is seeking to protect and where possible to improve the look and feel of West Berkshire district, attracting visitors and making it a stimulating and enjoyable place in which to live, study and work.
- 1.2 The main purpose of this policy is to provide clarity to applicants, Responsible Authorities, elected Members and other persons on how the Council will determine applications made under the Act. It will also inform elected Members of the parameters within which licensing decisions can be made.
- 1.3 An effective licensing policy, alongside other initiatives, will work towards promoting the positive aspects of deregulation under the Act, such as promoting leisure provision and encouraging the regeneration of the town centres as well as controlling any negative impacts such as increase in crime and disorder, noise, nuisance and anti-social behaviour.
- 1.4 The Licensing Authority is committed to promoting a broad range of entertainment and recognising the wider cultural benefits for local communities. Live performance is central to the development of cultural diversity and vibrant, exciting communities, particularly traditional entertainment such as circuses and street arts. The Licensing Authority recognises that artistic freedom of expression is a fundamental right and should be greatly valued.
- 1.5 The Council recognises that licensed activities make an important contribution to the economy of the district. By regulating activities under this legislation the Council acknowledges that a balance must be struck between the legitimate objectives of applicants and the desires of the population as a whole, and in particular those members of the public living, working or engaged in normal activity in the area concerned. Consideration will be given to these, often conflicting, positions and all views will be taken into account when making licensing decisions or determining a course of action.
- 1.6 It should be understood that this policy cannot anticipate every scenario that may arise and as such there may be circumstances where the policy may be departed from in the interests of the promotion of the licensing objectives and where it is deemed appropriate to do so. In such cases the Council will give full reasons for departing from this policy.
- 1.7 The Council will carry out its licensing functions under the Act with a view to promoting the four licensing objectives, which are:
- a) [The Prevention of Crime and Disorder](#);
 - b) [Public Safety](#);

c) [The Prevention of Public Nuisance](#); and

d) [The Protection of Children from Harm](#).

1.8 The Licensing Authority is committed to working in close partnership and communicating with all licensees, Responsible Authorities and other persons where appropriate in order that they have a clear understanding of the legislative requirements. The Licensing Authority will continue to develop close working partnerships with other appropriate agencies and Responsible Authorities.

1.9 This policy is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers and operators, for example, the [Health and Safety at Work etc. Act 1974](#) and the [Regulatory Reform \(Fire Safety\) Order 2005](#). In addition, it should be noted that the planning and licensing regimes are separate. There is no legal basis for the Licensing Authority to refuse a licence application because the premises does not have planning permission.

1.10 The Council is conscious of the need to promote equality and when considering licensing matters will give due regard to the prevention of discrimination and promotion of equality of opportunity.

1.11 In determining the policy, the Council has taken into consideration any comments made by consultees, the statutory guidance issued under [section 182 of the Act](#) and the experience of administering and enforcing the Act since its introduction.

1.12 This policy takes effect from 01 December 2023 and will remain in force for a period of no more than five years. During this time it will be subject to regular review and updating or modification as appropriate, for example to take account of any changes in licensing legislation, with appropriate consultation on any material changes.

1.13 Comments on the policy may be made in writing to the Licensing Authority at any time. Contact details can be found towards the end of this document. All comments received will be carefully considered and, where appropriate, included in the policy.

2. Licensing Principles and Process

2.1 The Council is the Licensing Authority under the Act and is responsible for granting premises licences, club premises certificates, personal licences and acknowledging temporary event notices in the district. The aim of the licensing process is to regulate licensable activities so as to promote the licensing objectives.

2.2 There are four main licensable activities under the Act:

a) Sale by retail of alcohol;

b) the supply of alcohol by or on behalf of a club, or to the order of a member of the club

- c) the provision of regulated entertainment; and
- d) the provision of late night refreshment.

- 2.3 This policy sets out the process the Council will adopt in dealing with licence applications and will be used as a basis in coming to consistent and transparent decisions in respect of licence applications. The overriding principle adopted by the Council will be that each application is determined on its own merits. Every application will be treated fairly and objectively, taking into account the four licensing objectives, the policy and the statutory guidance issued under section 182 of the Act.
- 2.4 Each of the four licensing objectives is of equal importance and will be considered in relation to matters centred on the premises or within the control of the licensee and the effect which the operation of that business has on the vicinity. The Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned. The Act is not a primary mechanism for controlling general nuisance unconnected to licensable activities or the licensing objectives.
- 2.5 It is acknowledged that public concern over disorder in particular may be thought to be a result of licensing legislation only. The Council can only have regard to the provisions of the Licensing Act 2003 when determining an application. However the Council recognises that other mechanisms exist to control disorderly behaviour, e.g. planning controls, town centre management arrangements, confiscation of alcohol from adults and children in designated areas, and Police enforcement powers.
- 2.6 When determining applications, the Licensing Authority must be satisfied that the applicant's operating schedule ([please see section 4](#)) seeks to promote the four licensing objectives. The Licensing Authority will make decisions guided by this policy but will not fetter its right to discretion. In the interests of the safety and wellbeing of all users of the facilities it licenses, the Licensing Authority expects licensees to adopt best practices for their industry. This policy further outlines the expectations of the Licensing Authority and should assist applicants.
- 2.7 The Licensing Authority recognises that conditions attached to various authorisations will be focussed on matters which are within the control of the licence holders. Conditions shall be proportionate and appropriate to achieve the promotion of the licensing objectives, and shall be tailored to suit the circumstances and premises.

3. Making an Application

- 3.1 The relevant application forms and associated documents are obtainable from the Council's website or from the [Licensing Service](#) on request. It is strongly recommended that all applicants consult with the Licensing Authority prior to

submitting an application. It may be appropriate to submit a draft application for comments.

- 3.2 The Council are happy to accept applications electronically. Applicants are advised to contact licensing@westberks.gov.uk for information.
- 3.3 A plan must be attached to an application for a premises licence or a club premises certificate. The plans do not have to be professionally drawn, however they must be to scale and contain the relevant information as required under regulation. By preference the plan should be at a scale of 1:100; however the Council will accept plans of an alternative scale provided this is approved prior to submitting the application.
- 3.4 Where a licensed premises is being constructed, extended or structurally changed, the applicant may apply for a provisional statement. This will be processed in the same way as a new licence application. However the provisional statement will not automatically be converted into a full licence on completion of works, and the applicant will have to submit a new licence application. It is acknowledged that unless representations are made at the provisional statement stage, or are not made without reasonable excuse, and neither the premises/vicinity has changed nor the type of licensable activities taking place, the licence will be granted. The applicant will be required to submit a full schedule of works, including a statement of the licensable activities for which the premises are proposed to be used as well as the plans and proposed hours of use, in order to allow the Licensing Authority to make an informed decision.
- 3.5 Where conditions have not been adhered to in the past, the Licensing Authority will expect applicants to have taken action to address those issues. Applications may be refused where there are significant outstanding issues.
- 3.6 In particular, for large scale or new events, it is suggested that the event should be referred to the [Safety Advisory Group](#) in advance of submission of an application.
- 3.7 With regard to shops, stores and supermarkets, the normal scenario will be for such premises to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open for shopping unless representations raise reasons, based on the licensing objectives, for restricting those hours.
- 3.8 In some circumstances, flexible licensing hours for the sale of alcohol can help to ensure that concentrations of customers leaving premises simultaneously are avoided.

4. The Operating Schedule

- 4.1 All applicants for the grant or variation of a premises licence or club premises certificate are required to provide an operating schedule as part of their application. This is a key document and, if prepared comprehensively, will form

the basis on which premises can be licensed without the need for additional extensive conditions. The Council expects an operating schedule to indicate the steps that the applicant proposes to take to promote the licensing objectives. This should follow a thorough risk assessment relating to the specific premises and licensable activities proposed to take place.

- 4.2 Applicants are strongly recommended to discuss their operating schedule with the Responsible Authorities prior to submitting the application. The Licensing Team can assist in co-ordinating this process.
- 4.3 The complexity and detail required in the operating schedule will depend upon the nature and use of the premises. It must include details of the following:
- a) Full details of the licensable activities to be carried on at and the intended use of the premises;
 - b) The times during which licensable activities will take place;
 - c) Any other times when the premises are to be open to the public;
 - d) Where the licence is only required for a limited period, that period;
 - e) Where the licensable activities include the supply of alcohol, the name and address of the individual proposed to be Designated Premises Supervisor;
 - f) Whether alcohol will be supplied for consumption on or off the premises or both; and
 - g) The steps the applicant proposes to promote the licensing objectives.
- 4.4 Where measures to promote the licensing objectives are included in the operating schedule, these may be used to form conditions attached to the licence and should therefore be clear, concise and unambiguous.
- 4.5 The following guidance is intended to assist applicants by setting out criteria and considerations that they should bear in mind when drawing up an operating schedule. They alert applicants to any matters that Responsible Authorities are likely to consider when deciding whether to make representations on an application or whether to call for a review of the premises licence.
- 4.6 A pool of model conditions is available on request from the Licensing Team. Individuals preparing operating schedules are at liberty to use these conditions, or volunteer any other measures(s) to promote the licensing objectives. Each licence will have conditions attached to it that are appropriate to that individual application.

5. Licensing Objective 1: Prevention of Crime and Disorder

- 5.1 The Licensing Authority is committed to reducing crime and disorder to improve the quality of life for the people of West Berkshire. Good management and practice procedures in licensed premises can make an important contribution to lessening the impact that consumption of alcohol can have on crime and disorder. The Licensing Authority and Thames Valley Police through the [Building Communities Together Partnership](#) will regularly monitor and review crime statistics within the district and their association with alcohol. When applying conditions, the Council will be mindful of the local Community Safety Strategy.
- 5.2 Licensees are encouraged to work in partnership with a local Pubwatch scheme, where it exists to form strategies for actively preventing crime and disorder issues. This scheme encourages the sharing of information and seeks to address matters such as underage sales, drunkenness, illegal drug use and anti-social behaviour.
- 5.3 Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and event; for example
- a) Prevention of use, sale or supply of illegal drugs on the premises, and procedures and provision for storage of seized items.
 - b) Prevention of drunkenness and alcohol abuse such as drinking games and irresponsible drinks promotions.
 - c) Security features such as provision and storage of CCTV - capable of retaining recording images for a period of 31 days from the date of an event and to an identifiable standard (bearing in mind the need to comply with data protection regulations, existing and new legislation).
 - d) A prescribed capacity limit.
 - e) Use of door staff to control entry to the premises.
 - f) Procedures for ejection or dispersal of persons from the premises.
 - g) Procedures for dealing with harassment, discrimination and inappropriate behaviour.
 - h) Use of polycarbonate/plastic containers and toughened glass and prevention of persons taking drinks from the premises in open containers.
 - i) Display of crime prevention and assistance notices including for example Ask Angela, Ask ANI and anti-drink spiking initiatives.
 - j) An appropriate ratio of tables and chairs to customers based on capacity

5.4 Wherever possible, applicants are expected to be aware of local groups known to incite violence or hatred or take part in extremist activities in order to prevent the likelihood of meetings resulting in crime and disorder. Licensees will be expected to take into consideration the potential impact on privacy or religious freedom and the ethnic and cultural composition of the local area when hosting these meetings. The Licensing Authority recognises the need to promote the elimination of unlawful discrimination and equality of opportunity and recommends licensees seek guidance from the [Equality and Human Rights Commission](#) or by contacting them on 0808 800 0082.

6. Licensing Objective 2: Public Safety

6.1 When visiting licensed premises, members of the public have a right to be confident that due consideration has been given to their physical safety. Where an applicant identifies an issue in regard to public safety (including fire safety) which is not covered by existing legislation, the applicant should identify in their operating schedule the steps which will be taken to ensure public safety. Such steps will be dependent on the individual style and characteristics of the premises and/or event(s) to be held. It should be noted there is an overriding legal duty to comply with the provisions of Health and Safety at Work legislation, including risk- assessment and control.

6.2 The Licensing Authority has a Safety Advisory Group ('SAG') and, where appropriate, applicants are encouraged to seek the group's advice on issues of public safety. For example, a licensee who wishes to stage a licensable public event which is not specifically indicated in the operating schedule may be invited to approach the SAG. When applying for licensable events on Local Authority property, the applicant may be required to present an event plan to the SAG.

6.3 Applicants may wish to consider inclusion of the following steps within their operating schedule with a view to the safety of persons attending the premises:

- a) Evacuation procedures including measures for disabled persons;
- b) Maintenance of alarm systems and emergency lighting;
- c) Maintenance of all escape routes and exits;
- d) Safety checks and records in a log book;
- e) Access for emergency vehicles;
- f) First aid equipment and trained first aiders;
- g) Appropriate lighting and ventilation and monitoring of noise levels;
- h) Checks on temporary electrical installations;
- i) Use of special effects such as lasers, pyrotechnics and smoke machines;

- j) Control of any animals at the premises;
- k) Use of Security Industry Authority (SIA) licensed door supervisors or stewards;
- l) Procedures to ensure safety of women and vulnerable persons;
- m) Provision of potable water (mandatory for premises with on-sales of alcohol).

6.4 For indoor sports entertainment or boxing or wrestling where special provision must be made for the safety of the public, applicants may wish to consider inclusion of the following steps within their operating schedule:

- a) Provision of qualified medical practitioners;
- b) Where a ring is involved, that it be constructed and inspected by a competent person and any material used to be flame retardant;
- c) Where there is wrestling or similar entertainment that the public do not occupy any seat within 2.5 metres of the ring;
- d) Where there is a water sports event, appropriate provision of staff adequately trained to be available and remain in the vicinity at all times.

7. Licensing Objective 3: The Prevention of Public Nuisance

7.1 The Licensing Authority interprets 'public nuisance' in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour. Public nuisance could include low-level nuisance perhaps affecting a few people living locally as well as major disturbance affecting the whole community.

7.2 The Council is committed to minimising the adverse impact of licensable activity, whilst not unduly restricting the reasonable provision of licensed activity. It is noted that there are mechanisms other than the licensing regime that are available for addressing public nuisance away from the licensed premises. Examples include planning controls and Public Spaces Protection Orders.

7.3 The Licensing Authority, whilst recognising the need to treat every application on its own merits, should be satisfied that the type of licensable activities proposed and hours of operation will be suitable for the location in which the premises are situated (e.g. areas of dense residential accommodation). Playing of music can cause nuisance both through noise breakout and by its effect on patrons, who become accustomed to high sound levels and to shouting to make themselves heard, which can lead to them being noisier when leaving premises. Other major sources of noise nuisance are vehicles collecting customers, the slamming of car doors and the sounding of horns. These noises can be particularly intrusive at night when ambient noise levels are lower.

7.4 Where premises are located near to noise-sensitive areas, e.g. residential premises, nursing homes, hospitals or places of worship, the licensee should

initially identify any particular issues (having regard to their particular type of premises and/or activities) which are likely to adversely affect the promotion of the objective to prevent public nuisance. Such steps as are required to deal with these identified issues should be included within the applicant's operating schedule.

7.5 In considering applications, the Licensing Authority will expect to see, where appropriate, evidence that the following matters have been addressed in the operating schedule:

- a) Measures to reduce noise and vibration escaping from the premises; including noise from music and voices whether or not amplified;
- b) Consideration of the licensed hours and restrictions on when licensable activities can take place both indoors and outdoors;
- c) Monitoring checks and logs of any checks carried out;
- d) Prevention of noise from deliveries or waste collections, or disposal of glass bottles etc., at unsociable hours;
- e) Measures to encourage quick and quiet dispersal by customers and staff including provision for access to book taxis, lowering the volume of music during the last 30 minutes before closing time and procedures for the safe removal and dispersal of persons ejected from the premises;
- f) Measures to control light to ensure that it does not stray outside the boundary of the premises so as to give rise to problems to local residents and businesses;
- g) Measures to control nuisance that might be associated with the use of the external areas, particularly late at night, including supervision of the areas and specified times during which food and drink will not be permitted to be consumed in the external areas;
- h) Measures to control litter and odour associated with use of the premises.

7.6 **Agent of Change Principle** - This means that someone responsible for a change in a vicinity, for example a developer, is also responsible for the impact of that change. This principle, which exists to a degree in planning policy already, is relevant to existing pubs, bars and other venues that host and play music but find themselves subject to complaints by residents who have moved in to residential developments that were built since the licensed premises was established. The Agent of Change principle places the responsibility for mitigating impacts from existing noise-generating activities or uses on the proposed new noise-sensitive development. In other words, the person or business responsible for the change must also be responsible for managing the impact of the change.

8. Licensing Objective 4: Protection of Children from Harm

- 8.1 This objective includes the protection of children from moral, psychological and physical harm. The applicant should initially identify any particular issues (having regard to their particular type of premises and/or activities) which are likely to cause concern in relation to children. Applicants will be expected to consider the risk of children being exposed to alcohol, drugs, gambling, activities of an adult and/or sexual nature and exposure to excessive noise or incidents of violence and disorder. Such steps as are required to deal with these identified concerns should be included within the applicant's operating schedule.
- 8.2 The provisions of the Act are that unaccompanied children under 16 should not be on 'premises being used exclusively or primarily for the supply of alcohol' (e.g. 'alcohol led' premises such as pubs, bars and nightclubs). In addition, it is an offence to allow unaccompanied children under 16 on premises licensed to sell alcohol for consumption on the premises between midnight and 05:00.
- 8.3 Where appropriate, applicants should state in their operating schedule:
- a) whether or not they will admit children to any or all parts of the licensed premises;
 - b) where children are to be admitted, the steps that will be taken to protect children from harm, for example supervision requirements, provision of designated areas for children and families, and hours during which children will not be permitted to be on the premises;
 - c) The applicant will also be expected to consider provision for lost and found children (in particular at large public events).
- 8.4 Where appropriate, the Licensing Authority will expect the applicant to evidence how they will supervise children who are performing in an event with regulated entertainment event and what consideration will be given to the welfare of children at attractions or performances likely to attract children. Where children are supervised, the Licensing Authority will expect the operating schedule to demonstrate that these supervisors have been appropriately checked by the [Disclosure and Barring Service](#).
- 8.5 Where events are taking place that are provided solely or mainly for children, for example an under-18s disco, the expectation is that no alcohol will be served. Applicants are required, where appropriate, to set out in their operating schedule the arrangements they have in place to prevent the sale of alcohol and age-restricted items to children. The Council expects all applicants to apply a [Challenge 25 policy](#) in respect of age restricted items. Where such a policy is not proposed within the operating schedule, it is expected that the applicant provides justification as to why such a policy is not required. The Licensing Authority recommends use of any of the following as an acceptable proof of age:
- a) Passport

- b) Photocard driving licence
 - c) Proof of Age Standards Scheme Card (PASS)
 - d) Official ID card issued by HM Forces or by a European Union country bearing a photo and date of birth of holder.
- 8.6 Consideration should also be given to training (including refresher training) for staff, and records to evidence this training. In addition there should be means of recording challenges and/or refusals relating to potential sales of alcohol to underage persons.
- 8.7 Where there are off-licence sales, the Licensing Authority would expect the operating schedule to demonstrate how the licensee will discourage the sale of alcohol to customers on behalf of children in the vicinity ('proxy sales'). For example, if the licensee has any suspicions of this activity to ask the customer if they have been approached by children to purchase alcohol and if necessary contact the Police.
- 8.8 Applicants from retail outlets which use self-scanning devices or which offer delivery of alcohol will be expected to demonstrate how they are going to prevent the purchase or delivery of alcohol by persons under the age of 18 and how they will comply with Challenge 25, where applicable. It is suggested that such applicants may contact their Licensing Authority for its view on whether this form of alcohol sale is permitted. S182 updated guidance December 2022
- 8.9 The Licensing Authority will also expect applicants to set out in their operating schedule the measures that they will take to ensure that alcohol is not sold by persons under 18 unless specifically approved by a responsible person, or they are working as a waiter/waitress in a specially designated part of the premises and alcohol is sold only with a table meal.
- 8.10 Where appropriate, the Licensing Authority would expect applicants to demonstrate in their operating schedule that they will observe industry best practice guidance on the naming, packaging and promotion of alcoholic drinks to prevent children from being enticed into purchasing these products.
- 8.11 Licensees are encouraged to inform the appropriate agencies where it has been highlighted that children have tried to purchase alcohol and/or illegal substances.
- 8.12 In relation to exhibition of film, the Licensing Authority will expect the operating schedule to demonstrate that entry shall be controlled to protect children from exposure to strong language, sexual content and other inappropriate matters.
- 8.13 The Licensing Authority proposes to abide by the recommendations of the [British Board of Film Classification](#), but the Licensing Authority reserves the right to re-classify any film. Information regarding such classifications will be published on the Council's website. All requests for a classification must be accompanied by a synopsis of the film and a full copy of the film in DVD or other appropriate format,

and submitted at least 28 days before the proposed screening. Failure to submit a request in time may result in the Council being unable to classify the film. Requests shall be assessed against the BBFC guidelines and the licensing objectives.

- 8.14 The Licensing Authority recognises the [Berkshire West Safeguarding Children Partnership](#) as the competent body and Responsible Authority to advise matters relating to the protection of children from harm.
- 8.15 In considering applications, the Licensing Authority will expect to see, where appropriate, evidence that the following matters have been addressed in the operating schedule:
- a) Limiting the hours that children may be present;
 - b) Excluding children when particular specified activities are taking place;
 - c) Limiting the parts of the premises to which children have access;
 - d) Age limitations;
 - e) Excluding under 18s from the premises when licensable activities are taking place;
 - f) Requiring that an accompanying adult be present;
 - g) Arrangements for restricting children from viewing age-restricted films;
 - h) Arrangements to ensure that sufficient adult staff are present to ensure that the children are protected from harm.

9. Representations and Mediation

- 9.1 Where relevant representations have been submitted, the Licensing Authority shall aim to facilitate negotiations between the applicant, objectors and any relevant Responsible Authorities prior to the hearing. Hearings may be avoided when all parties arrive at an amicable solution to the issues raised through negotiation.
- 9.2 In determining the grant or variation of a licence, any person may make a representation, including the Responsible Authorities.
- 9.3 The Licensing Authority will consider any relevant representations received. Any individuals or responsible authority may request a representative to make representations on their behalf. This could be a legal representative, a friend, a Member of Parliament (MP) or a Ward Councillor. The Licensing Authority will inform Parish Councils, Town Councils and elected Members of valid representations received within their areas of jurisdiction.

9.4 The Licensing Authority itself is able to make representations, but this is likely to be limited to few cases, for example to ensure appropriate and proportionate conditions are included on a licence where the operating schedule is not clear. If the Licensing Authority makes a representation there shall be a separation of responsibilities between the officer exercising that role and those who are administering the application to ensure procedural fairness and eliminate conflicts of interest.

9.5 For a representation to be relevant it must:

- a) relate to the effect of the grant of the application on the promotion of the licensing objectives;
- b) not be 'frivolous or vexatious', and
- c) in the case of a review, must not be 'repetitious' if the representation is from a person other than a Responsible Authority, and
- d) if it concerns the designated premises supervisor, be made by a chief officer of police and include a statement explaining the reasons for the objection.

Representations can include positive/supportive representations as well as objections.

9.6 The Licensing Authority is responsible for considering representations in the context of this policy and legal requirements in order to determine whether they are relevant. The Licensing Authority authorises suitably qualified staff to discharge duties as appropriate to their seniority, professional qualification and/or experience.

9.7 Where a representation is received, the Licensing Authority will need to consider if it is frivolous or vexatious. The Licensing Authority may also consider the representation to be 'irrelevant' if it does not directly relate to the application and its impact on the promotion of the licensing objectives. If the decision is made that a representation is frivolous, vexatious, and/or irrelevant, the person making the representation will be informed of this in writing with full reasons being given for the decision.

10. Cumulative Impact

10.1 The Council recognises that the commercial demand for another premises in an area is not a matter for licensing considerations, but more a matter for the planning process and the market.

10.2 The Council also recognises that where there are several premises providing licensable activity in the same vicinity, the cumulative impact may have an adverse effect on the community; in particular from nuisance and disorder. Accordingly, the Council may refuse additional applications if it believes that to grant a licence would undermine one or more of the Licensing Objectives, and representations have been received from a Responsible Authority or other

person. In addition, the Council has to be satisfied that the criteria set out in the legislation are met. As detailed earlier in this policy, each application will be considered on its own merits.

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

10.4 The Council will expect licensees and potential licensees within an area to communicate with each other and prepare their Operating Schedules so that they complement each other and collectively meet the Licensing Objectives.

11. Decision Making

11.1 The Council will seek to carry out its responsibilities under the Licensing Act 2003 efficiently and cost-effectively. To do this, functions are delegated in line with the Councils Constitution published online via the link cited at Appendix B. This form of delegation is without prejudice to referring an application to a Sub-Committee or the Licensing Committee if it is considered appropriate in particular cases.

11.2 The quasi-judicial nature of the licensing process is such that elected members and officers of the Licensing Authority can offer only limited assistance at hearings. It is important therefore that those giving evidence either as applicants or objectors consider taking legal or other professional advice and ensure they are fully aware of the procedure to be followed at the hearing.

11.3 In determining the application the Licensing Authority will consider:

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

and will take such of the following steps as it considers necessary for the promotion of the licensing objectives:

- to grant the licence subject to the operating schedule modified to such extent as the sub-committee considers necessary for the promotion of the licensing objectives, and subject to the relevant mandatory conditions;
- to exclude from the scope of the licence any of the licensable activities to which the application relates;
- to refuse to specify a particular person as the Designated Premises Supervisor;

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

11.4 The decision of the Sub-Committee shall be accompanied with clear, cogent reasons for that decision, having had due regard to the Human Rights Act 1998 and all other relevant legislation. The decision and reasons for that decision will be sent to the applicant and those who have made relevant representations, and a summary of the decision shall be posted on the Licensing Authority's website as soon as is reasonably possible after the decision has been confirmed.

11.5 Anyone aggrieved by a decision of the Council has a right of appeal as set out in the Act. The Council will inform the appropriate parties of their right of appeal in accordance with the Act when confirming a decision of the Sub-Committee.

11.6 Where no relevant representations are received, the licence will be issued automatically with such conditions that are mandatory and those arising from the operating schedule. The Council has no discretion in such circumstances to refuse the application or to alter or add to the conditions offered through the operating schedule.

12. Temporary Event Notices

12.1 Temporary Event Notices (TENs) or late Temporary Event Notices (late TENs) may be used to authorise licensable activities at premises where there are 499 persons or fewer (including any staff and volunteers) present. TENs are not applications for permission to hold an event; they are notices of intention to hold an event. If there are 500 or more persons present at the event, a premises licence will be required.

12.2 In accordance with the 2003 Act, any individual person aged 18 or over may serve a TEN, whether or not they hold a personal licence. An individual who is not a personal licence holder may only serve a TEN five times a year of which two can be late TENs, and a personal licence holder no more than 50 times a year of which ten can be late TENs. Currently, no more than 20 TENs covering a maximum of 26 days may be served in respect of any particular premises in a single calendar year.

12.3 Organisers of temporary events are encouraged to serve their TEN as soon as is reasonably practicable in order for the Police and Environmental Protection to consider whether or not they have any concerns about the event and, if they have, to enable all parties to try and take steps to resolve those concerns. The TEN form is available on the Council's website.

12.4 Although the legal requirement is ten clear working days (or five clear working days for late TENs) not including the date of receipt or the date of the event, the

Licensing Authority recommends that at least two months' notice be given to hold such events, to allow sufficient time for organisers to plan their events safely, for appropriate publicity and for consultation with responsible authorities and interested parties. Any longer period than this may mean that organisers do not have all the details available at the time of submitting the notice, and any lesser time means that planning may be rushed and haphazard.

- 12.5 The processing of TENs by the Council is controlled by a strict statutory timetable; therefore, the Council will not accept a notice unless it is complete in all respects at the time of submission.
- 12.6 In the event of an objection, the Licensing Authority will hold a hearing and give a decision not less than 24 hours before the event is due to take place.
- 12.7 In the case of a late TEN application there is no right of appeal if an objection is received from the police or Environmental Health. In this case the event is invalid and cannot go ahead.
- 12.8 Organisers of events are reminded of the police powers to close down events with no notice on the grounds of disorder, the likelihood of disorder, or public nuisance. Therefore, the Licensing Authority expects organisers to be aware of the relevant offences under the Licensing Act 2003, for example sales of alcohol to children or to intoxicated persons.
- 12.9 Where exceptional events of local, national or international significance arise, for example a one-off local festival or World Cup, the Secretary of State may make a licensing order to allow premises to open for specified extended hours.

13. Personal Licences

- 13.1 Personal licences authorise individuals to sell or supply alcohol, or authorise the sale or supply of alcohol for consumption on or off a premises at which a premises licence is in force for that activity.
- 13.2 Personal licence applicants with relevant unspent criminal convictions are required to notify the Licensing Authority of the nature of those convictions at the time of application. Where a personal licence holder is convicted of a relevant offence during the period when their application is being considered, the licence holder is required to advise the Licensing Authority forthwith.
- 13.3 Where the Police or Immigration Enforcement believe that the grant of a personal licence would undermine the crime prevention objective, they will issue an objection notice. The Licensing Authority will arrange for a hearing to take place at which the application will be determined.
- 13.4 It is an offence for a personal licence holder who is convicted of a relevant offence not to inform the issuing Licensing Authority in order that their licence can be amended. The personal licence holder must also notify the Court that they hold a personal licence.

14. Club Premises Certificates

- 14.1 In order for qualifying clubs to supply alcohol and provide other licensable activities at their premises, a club premises certificate is required. Qualifying conditions are specified in section 61 of the Act and the Licensing Authority must be satisfied that these conditions have been met, including evidence that the club is non-profit making.
- 14.2 The Act does not require any member or employee to hold a personal licence in order to supply alcohol to members or sell alcohol to guests on the premises to which the certificate relates, nor is there a requirement for the club to specify a Designated Premises Supervisor. Where a club intends to admit the general public to an event where licensable activities will take place, then a premises licence or a TEN will be required.

15. Management of Licensed Premises

- 15.1 A critical element of the proper control of licensable activity and a premises where such activity is provided is good management. The Council encourages all licence holders to consider what skills and competencies are required for the safe delivery of regulated activities and secure appropriately trained staff.
- 15.2 Within all licensed premises, whether or not alcohol is to be sold, the Council will expect there to be proper management arrangements in place which will ensure that there is an appropriate number of responsible, trained/instructed persons at the premises to ensure the proper management of the premises and of the activities taking place, as well as adherence to all statutory duties and the terms and conditions of the premises licence.
- 15.3 Any premises where alcohol is sold under a premises licence must have a Designated Premises Supervisor (DPS) who must be a personal licence holder. The DPS will be named in the premises licence, a summary of which must be displayed on the premises.
- 15.4 The Council will normally expect the DPS to have been given the day-to-day responsibility for running the premises and as such it is expected that the DPS would usually be present at the licensed premises on a regular basis. The licence holder will also be expected to ensure that the DPS has experience commensurate with the size, capacity, nature and style of the premises and licensable activities to be provided. Where the DPS is not available at the premises for whatever reason, the Licensing Authority will expect his or her full contact details to be available at the premises and made known to at least one individual who will be present at the premises.
- 15.5 The Act does not require a DPS or any other personal licence holder to be present on the premises at all times when alcohol is sold. However every sale of alcohol must be made or authorised by a person who holds a personal licence on the premises, or by the DPS under authority that has been delegated (or must be made or authorised by the management committee in the case of community

premises). The Licensing Authority recommends that if the DPS authorises persons to make sales of alcohol, that this is done in writing, that the document of authorisation is kept on the premises and that all staff are made aware of the location of the document. Where the DPS has delegated responsibility for the sale of alcohol, they still have a duty of responsibility for the action of those they have authorised to make those sales.

16. Complaints, Enforcement and Inspections

- 16.1 Complainants are encouraged in the first instance to raise any concerns directly with the licensee or business concerned. Complaints may be sent to the Licensing Team, Theale Library, Church Street, Theale, Berkshire, RG7 5BZ or licensing@westberks.gov.uk for investigation.
- 16.2 Where there are any issues identified or need for improvement at a premises, Officers and Responsible Authorities will seek to work with the licence holder to address these concerns and to achieve a resolution through informal means wherever possible.
- 16.3 The Council undertakes proactive risk-based inspections of all licensed premises to ensure continued promotion of the licensing objectives and compliance with licence conditions. Premises that consistently fail inspections may be subject to a licence review or other enforcement action. Where one-off events are taking place, the Licensing Authority may also carry out inspections to ensure promotion of the licensing objectives.
- 16.4 In terms of enforcement, the aim is to target those premises which are causing problems within the community, whilst supporting well managed premises and activities which provide opportunities for the enjoyment of leisure time without having a negative impact.
- 16.5 Protocols for enforcement may be established between Responsible Authorities and the Licensing Authority in order to ensure efficient and targeted action for specific problems and high risk premises that require greater attention, whilst allowing a lighter touch in respect of well run, low risk premises. This does not prevent action being taken by any individual authority at any time should offences become apparent. In most cases, a graduated form of response is expected to resolving issues of non-compliance although it is recognised that in serious cases a prosecution or a review application will be the most appropriate means of disposal.
- 16.6 In addition to the [Council's enforcement policy](#), the Licensing Authority will also have regard to the [Regulators' Code](#) and the [Enforcement Concordat](#) and any decision to instigate legal proceedings will take account of the criteria set down in the [Code for Crown Prosecutors](#) and [Attorney General Guidelines](#).

17. Reviews of Premises Licences

- 17.1 At any stage following the grant of a premises licence, a Responsible Authority or other person may ask the Council to review the licence because of concerns arising at the premises in connection with one or more of the four licensing objectives. However it is hoped that this can be avoided by dealing with issues in an informal manner wherever possible, and that reviews will be a measure of last resort.
- 17.2 In every case, the application for review must be relevant to the promotion of the licensing objectives. A hearing will be held to determine the application unless all parties agree that a hearing is not necessary.
- 17.3 Where the request originates from a person other than a Responsible Authority (e.g. a local resident, residents' association or local business) the Licensing Authority must consider whether the request for review is vexatious, frivolous or repetitious. The Licensing Authority may refuse an application for a review on any of these grounds and will give reasons to the applicant for such a refusal.

18. Early Morning Restriction Orders (EMROs)

- 18.1 The Licensing Act sets out powers conferred on licensing authorities to make early morning restriction orders. These powers are designed to help Licensing Authorities address specific problems caused by late night supply of alcohol in their areas allowing licensing authorities to restrict the sale of alcohol in the whole or a part of their areas between midnight and 06:00. Licensing Authorities may make an EMRO in relation to problem areas if they have evidence that the order is appropriate for the promotion of the licensing objectives.
- 18.2 At the time of writing this policy the Licensing Authority has no plans to make an EMRO in any part of the district. However, the situation will be kept under review and should evidence emerge that suggests that the sale of alcohol between midnight and 06:00 is creating specific problems the Council will consider whether the introduction of an EMRO is appropriate. In considering the appropriateness of an EMRO the Licensing Authority will consider evidence from partners, including responsible authorities, local Community Safety Partnerships or other sources such as the consultees in Appendix A. If a proposal to implement an EMRO arises in the future the Licensing Authority will advertise and consult about its proposal in accordance with legislation and national guidance.

19. Late Night Levy (LNL)

- 19.1 Late night levy powers will allow Licensing Authorities to raise a contribution from late opening alcohol retailers (from midnight to 06:00) towards policing the late night economy. This is a power that Licensing Authorities can choose whether to adopt for their areas. If adopted the powers must apply to the whole of the licensing authority's area. Income from the net levy is to be split between the

Police and the Licensing Authority on the basis of a minimum 70% allocated to the Police and a maximum 30% allocated to the Licensing Authority.

- 19.2 At the time of writing this policy the Licensing Authority has no plans to collect a LNL. However the situation will be kept under review and prior to making a decision to implement a LNL, the Licensing Authority would have discussions with the Police and Crime Commissioner (PCC) and local police to decide whether it is appropriate to introduce a LNL. If a proposal to implement a LNL arises in the future, the Licensing Authority will consult the PCC, the police, licence holders and other sources such as the consultees in Appendix A about its proposal.

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Appendix A:

List of Consultees

- Alcoholics Anonymous
- Association of Convenience Stores
- Association of Licensed Multiple Retailers
- Berkshire West Safeguarding Children's Partnership
- Bingo Association
- British Amusement Catering Trade Association
- British Beer and Pub Association
- British Institute of Innkeeping
- British Retail Consortium
- Building Communities Together Team
- Federation of Licensed Victuallers
- Guild of Master Victuallers
- Health and Safety Executive
- Home Office – Immigration Enforcement
- Local residents (via the Consultation Hub and Community Panel)
- Parish and Town Councils
- Premises licence and club premises certificate holders
- Pubwatch
- Royal Berkshire Fire and Rescue Service
- Thames Valley Police
- Via (Charity that provides free and confidential advice and support to help service users manage, reduce or stop their drug or alcohol use)
- The British Pub Confederation
- West Berkshire Councillors
- West Berkshire Council Environmental Health
- West Berkshire Council Planning
- West Berkshire Council Public Health Team
- West Berkshire Council Trading Standards
- West of Berkshire Safeguarding Adults Board

Appendix B:

Delegation of Functions

See relevant scheme of Delegations [here](#)

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Appendix C:

Glossary

Agent of Change Principal	Places the responsibility for mitigating impacts from existing noise-generating activities or uses on the proposed new noise-sensitive development.
Capacity Limit	Where the Licensing Authority and/or Fire Authority have set a limit on the number of people allowed in a premises or part of a premises, to prevent overcrowding which can lead to crime and disorder and concerns over public safety.
Child	Any person who is under the age of 18 years.
Club Premises Certificate	A certificate authorising the supply of alcohol to members of a qualifying club, the sale of alcohol to guests on the premises and the provision of regulated entertainment without the need for any member or employee to hold a personal licence.
Council	As far as this policy is concerned, any reference to the Council shall be interpreted as the Licensing Authority.
Cumulative Impact	Where there is a potential impact on the promotion of the licensing objectives due to a significant number of licensed premises concentrated in one area.
Designated Premises Supervisor	A specified individual, holding a personal licence, who is responsible for the day-to-day running of the business and whose name will appear on the premises licence.
Late Night Refreshment	The supply of hot food and drink between the hours of 23:00 and 05:00 for consumption on or off the premises.
Licence Types	<ul style="list-style-type: none"> • Premises Licence • Club Premises Certificate • Personal Licence • Provisional Statement • Temporary Event Notice
Licensable Activities	<ul style="list-style-type: none"> • The sale of alcohol by retail • The supply of alcohol by or on behalf of a club to, or to the order of, a member of a club • The provision of regulated entertainment • The provision of late night refreshment
Licensing Objectives	<ul style="list-style-type: none"> • The Prevention of Crime and Disorder • Public Safety • The Prevention of Public Nuisance • The Protection of Children from Harm
Licensing Qualification	Qualification accredited by the Secretary of State and a requirement for a personal licence.

Operating Schedule	This forms part of the completed application form for a premises licence and must promote the licensing objectives. See section 4 for more information.
Personal Licence	This authorises individuals to sell or supply alcohol or authorise the sale or supply of alcohol for consumption on or off the premises for which a premises licence is in force for the carrying on of that activity.
Premises Licence	A licence in respect of any premises, including land or buildings under public ownership within the community that are to be used for one or more licensable activities. Valid for an indefinite period unless revoked or surrendered.
Proprietary Clubs	Clubs run by individuals, partnerships or businesses for the purpose of making a profit.
Responsible Authority	Responsible Authorities are defined in the Licensing Act 2003 as authorities who are able to comment on applications made under the act. They can apply for a review of a licence under certain circumstances.
Provisional Statement	Where premises are being constructed or extended or substantial structure changes are proposed.
Qualifying Club	Where members have joined together for particular social, sporting or political purposes and then combine to buy alcohol in bulk as members. Examples of qualifying clubs are: <ul style="list-style-type: none"> • Political clubs • Royal British Legion • Working men's clubs • Social and sports clubs A qualifying club can, however, obtain a premises licence if it wishes to offer its facilities commercially for use by the general public.
Regulated Entertainment	Entertainment that is provided to members of the public or to members of a qualifying club, or entertainment held with a view to profit. This includes plays, films, indoor sporting events, performance of dance and live and recorded music. For more detailed advice on whether a specific activity constitutes regulated entertainment, please contact the Licensing Team.
Relevant Offences	As set out in Schedule 4 to the Licensing Act 2003.
Relevant Representations	Representations (objections) made by a responsible authority or any other person which are deemed as relevant

Responsible Authorities	<p>This group can make representations and includes bodies such as:</p> <ul style="list-style-type: none"> • The Chief Officer of Police • The Fire Authority • The Local Enforcement Authority for the Health and Safety at Work etc. Act 1974 • The Weights and Measures Authority • The Planning Authority • Environmental Health • Public Health • The body responsible for matters relating to the Protection of Children from Harm - the Local Safeguarding Children Board • The Licensing Authority • Home Office (Immigration Enforcement)
SAG	<p>Safety Advisory Group. An advisory body whose purpose is to offer advice and guidance on event organisation.</p>
Temporary Event Notice (TEN)	<p>A notice of intention to carry on of the sale of alcohol, provision of regulated entertainment or late night refreshment at a premises not otherwise authorised by a premises licence or club premises certificate.</p>
Late Temporary Event Notice (late TEN)	<p>As per Temporary Event Notice, however, can be served with between 5 and 9 working days notice before the day of the event. There is no right of appeal or to a hearing if the Police or Environmental Health raise an objection.</p>

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Amendments to Statement of Licensing Policy June 2023

- 4.6 Each licence will have conditions attached to it that are appropriate to that individual application. NEW ADDITION
- 5.2 Licensees are encouraged to work in partnership with a local Pubwatch scheme, where it exists, to form strategies for actively preventing crime and disorder issues. This scheme encourages the sharing of information and seeks to address matters such as underage sales, drunkenness, illegal drug use and anti-social behaviour. ADDITION IN RED
- 5.3 • Display of crime prevention and assistance notices including for example Ask Angela, Ask ANI and anti-drink spiking initiatives. ADDITION IN RED
- 6.3 • Use of Security Industry Authority (SIA) licensed door supervisors or stewards
ADDED WORDS
- 7.6 Agent of Change Principle - This means that someone responsible for a change in a vicinity, for example a developer, is also responsible for the impact of that change. This principle, which exists to a degree in planning policy already, is relevant to existing pubs, bars and other venues that host and play music but find themselves subject to complaints by residents who have moved in to residential developments that were built since the licensed premises was established. The Agent of Change principle places the responsibility for mitigating impacts from existing noise-generating activities or uses on the proposed new noise-sensitive development. In other words, the person or business responsible for the change must also be responsible for managing the impact of the change. ADDED NEW PARAGRAPH
- 8.5 (b) Photocard driving licence (issued in the European Union) REMOVED
IN RED
- 8.8 It is suggested that such applicants may contact their Licensing Authority for its view on whether this form of alcohol sale is permitted. S182 updated guidance Dec 2022 ADDED
- 8.14 The Licensing Authority recognises the Berkshire West Safeguarding Children Partnership as the competent body and Responsible Authority to advise matters relating to the protection of children from harm. UPDATED
- 12.2 Currently, no more than 20 TENs covering a maximum of 26 days may be served in respect of any particular premises in a single calendar year. UPDATED in line with recent legislation

13.3 Where the Police or Immigration Enforcement believe that the grant of a personal licence would undermine the crime prevention objective ADDED WORDING IN RED

16.6 In addition to the Council's enforcement policy, the Licensing Authority will also have regard to the Regulators' Code and the Enforcement Concordat and any decision to instigate legal proceedings will take account of the criteria set down in the Code for Crown Prosecutors and Attorney General Guidelines LINKS ADDED TO POLICIES

APPENDIX A Consultees-UPDATED & ADDED TO

APPENDIX B Link Added

APPENDIX C Glossary ADDED TO

Agent of Change Principal Included

West Berkshire Council Licensing Annual Report 2022/23

Committee considering report:	Licensing Committee
Date of Committee:	10 July 2023
Portfolio Member:	Councillor Lee Dillon
Report Author:	Julia O'Brien
Forward Plan Ref:	LC4295

1 Purpose of the Report

- 1.1 To set out the work of the Licensing Committee, Licensing Sub-Committee and Licensing Service in 2022/23.
- 1.2 To consider and discuss the progress that has been made with assisting the trade to “go greener” and consider any new initiatives that can be introduced.
- 1.3 To consider the funding gap and impact on the Service arising from the diminution in the number of licenses being issued.

2 Recommendations

That the Committee

- 2.1 **NOTES** the content of this report including the work of the Licensing Committee and Service related activity for 2022/23.
- 2.2 **NOTES** the funding gap and the work that is being done to mitigate this loss of income.
- 2.3 **NOTES** the progress that has been made with assisting the trade to ‘go greener’.
- 2.4 **CONSIDERS** any additional initiatives that can be explored to help the taxi trade ‘go greener’.

3 Implications and Impact Assessment

Implication	Commentary
Financial:	The Licensing functions within the PPP operate on a cost recovery basis with respect to discretionary fees. The Committee considers discretionary fees (usually at the November meeting) before they are considered by Full Council as part of the annual budget setting process.

	<p>A small number of fees (private hire operator, and hackney carriage and private hire vehicle licence fees) are required by legislation to be subjected to a statutory consultation. The outcome of that consultation is usually reported back to the January Licensing Committee meeting and any proposed modifications are then recommended to full Council for approval.</p> <p>There is now a clearly identified long term structural loss of licensing income in the order of £150k - £180K per annum from the 2019 base. Addressing the licensing income shortfall has been identified as a priority for 2023/24 in the Service Plan which was agreed at the January 2023 JPPC meeting.</p>
<p>Human Resource:</p>	<p>The Applications Team was merged with the Licensing Operations function in the Summer of 2021. The Team currently comprises around 10.3 FTE (Full Time Equivalent posts) albeit that around 4.88 FTE has been vacant for most of 2022/23. These vacant posts have helped mitigate some the loss of licensing income.</p> <p>The Service will be conduct a comprehensive review of fees and charges and the resource needed to deliver an effective and comprehensive licensing service in the context of falling income and the implementation of the new service portal in this financial year.</p> <p>The Service has started to implement its grow your own ethos set out in the Workforce Strategy to address the vacancies. Four Trainee Compliance Officers are in post and are undertaking a Level Four Regulatory Compliance Apprenticeship funded from the Apprenticeship Levy. Two Officers also completed the Professional Licensing Practitioner's Qualification during the 2022/23 financial year.</p>
<p>Legal:</p>	<p>These are all statutory functions.</p> <p>Under the Licensing Act 2003 and the Gambling Act 2005 there is a legal obligation for the Council to set key policies. In other areas the Council has a range of powers to set licence conditions and adopt sector specific policy positions.</p>
<p>Risk Management:</p>	<p>The inability to recruit suitably qualified licensing officers and falling income are two of the most significant risks for the Public Protection Partnership (PPP). Delays to the full implementation of the new cloud based IT system has also been identified as a risk for this Team especially in relation to the implementation of the self-service portal which is designed to generate its own efficiencies.</p>

Property:	None.			
Policy:	The Licensing regime is covered by the policies arising from the Licensing Act 2003 and the Gambling Act 2005. In other areas the Council has a range of powers to set licence conditions and adopt sector specific policy positions.			
	Positive	Neutral	Negative	Commentary
Equalities Impact:				
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		✓		
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		✓		
Environmental Impact:		✓		
Health Impact:		✓		
ICT Impact:		✓		
Digital Services Impact:		✓		
Council Strategy Priorities:		✓		This report covers the business as usual work of the Licensing Committee, Licensing Sub-Committee and the Licensing functions provided by the PPP.

Core Business:		✓		This report covers the business as usual work of the Licensing Committee and the Licensing functions provided by the PPP.
Data Impact:		✓		All data reported is open data and any addresses detailed are in the public domain following hearings open to the public.
Consultation and Engagement:	None as this is an update report.			

4 Supporting Information

Introduction

- 4.1 The shared Public Protection Partnership (PPP) delivers a range of regulatory functions across Bracknell Forest and West Berkshire. Licensing however is distinct in the way that activities are overseen and policy is set. Whilst all decisions related to the PPP go through the Joint Public Protection Committee (JPPC), each partner authority retains its individual Licensing Committee and sets licensing related policies and monitors performance. This requires careful co-ordination and clear governance arrangements have been put in place to ensure that this happens.
- 4.2 The shared Licensing Service considers and issues a range of licences, consents, notices and permits required by businesses in order that they can deliver a range of services and goods to residents and visitors to West Berkshire. Legislation requiring a licence/consent/notice/permit for a business activity is generally enacted in order to protect users of a service or the wider community such as those that might be affected due to their proximity to the licensed premises or their interaction with an individual licence holder. Animal Welfare licensing provisions are there to protect the health and wellbeing of animals in regulated settings such as kennels or performances. Good regulation, properly implemented also provides a level playing field for the licensed sector.
- 4.3 It is acknowledged by the licensed sector that an effective licensing regime, soundly administered and founded on sensible and effective policies creates consumer confidence which in turn is positive for licence holders. The service is aware that the licensing function, whilst offering protection, can also act as a barrier to others who wish to deliver services or supply goods and every effort is made to assist businesses to understand and progress through the licensing process. The service therefore has a number of functions including business advice, processing of applications, monitoring compliance and where necessary taking enforcement action.
- 4.4 As part of the work to streamline the service and in order to add resilience to the teams the Applications Team was merged with Licensing Operations during 2021/22. The Team establishment comprises around 10.3 FTE posts albeit there are number of vacancies. It is hoped all vacancies will be filled in the next three months. This has meant that the service has had to engage agency licensing officers to provide cover

which has had a budgetary impact. The Service has recently successfully recruited a licensing officer and the applications team is at full strength.

- 4.5 There is also around 0.3FTE in terms of policy and governance work to support the Committee and assist with policy development.
- 4.6 Despite the recent recruitments, more generally recruitment of experienced and or suitably qualified Licensing Officers has proved to be very challenging. In the longer term it is anticipated that this issue will be mitigated by the implementation of the Workforce Planning Strategy. The Strategy seeks to develop our existing staff by ensuring that they have access to appropriate training and also the appointment of Trainee Regulatory Compliance Officers whose training is funded through the Apprenticeship Levy. Trainees are being allocated to the Licensing Service and are now able to provide practical delivery of aspects of the Service.

The Licensing Committee

- 4.7 The [Licensing Committee](#) is responsible for setting the policy direction that forms the basis of licensing activity in the District. Under the Licensing Act 2003 and the Gambling Act 2005 there is a legal obligation for the Council to set key policies. In other areas the Council has a range of powers to set licence conditions and adopt sector specific policy positions. There is also a requirement for the Council to have a Licensing Committee of between 12 and 15 Members.
- 4.8 The Licensing Committee comprised 12 Members and the 2022/23 membership is set out below and the Service would like to thank them for their invaluable contributions to the work of the Team:

Conservative Group (seven Members)	Steve Ardagh-Walter, Jeff Beck, Graham Bridgman, James Cole (Chairman), Clive Hooker, Tony Linden, Graham Pask
Liberal Democrat Group (four Members)	Adrian Abbs, Phil Barnett (Vice-Chairman), Billy Drummond and Martha Vickers
Green Group (one Member)	David Marsh

- 4.9 Following the annual Council meeting on the 25 May 2023 the 2023/24 membership of the Committee is as follows:

Liberal Democrat Group (8 Members)	Phil Barnett (Chairman), Billy Drummond, Nick Carter, Nigel Foot, Owen Jeffery, Stephanie Steevenson, Louise Sturgess, Martha Vickers,
Conservative Group (3 Members)	Paul Dick (Vice Chairman), Paul Kander, Jane Langford

Labour Group (1 Member)	Clive Taylor
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4.10 Over the 2022/23 period the Licensing Committee met on 10th May 2022 (annual meeting), 04th July 2022, 07th November 2022 and 23rd January 2023. The Committee considered a number of matters including:

- overseeing the statutory process for varying Hackney Carriage Tariffs making recommendations to the Executive about modifications,
- considering the Draft Hackney Carriage and Private Hire Licensing Policy and facilitating ongoing discussions with the trade about the policy.
- considered the Licensing Fees and Charges for 2023/24 including considering the outcome of the consultation on the statutory element of these fees.
- reviewing a motion about offering a remittance for electric and hybrid private hire and hackney carriage vehicle fees and recommending to the Executive that this proposal be adopted.
- considering the implications of the revised section 182 guidance issued under the Licensing Act 2003 by the Secretary of State in December 2022.

4.11 The revised Hackney Carriage Tariffs 2022 (an uplift of circa 8%) came into effect on the 29 July 2022 following Executive approval at the 07 July 2022 meeting. Although three objections were received during the consultation all three were subsequently withdrawn and therefore the revised tariffs came into effect the day after the consultation closed. This was the first year that separate tariff cards were introduced for saloon and multi-seater vehicles. The agenda includes a separate report on the 2023 Hackney Carriage Tariffs.

4.12 In terms of forward planning, in addition to the annual fees and charges cycle, a number of policies including the following are scheduled for consideration and where appropriate adoption during the 2023/24 cycle:

- The Draft Hackney Carriage and Private Hire Licensing Policy (November 2023);
- The Statement of Licensing Policy (November 2023 following a 10 week consultation).

4.13 At each meeting Committee Members are asked to consider if there are any additional items that they wish to include on the Forward Plan.

Licensing Sub-Committees

4.14 While the Licensing Committee carries out functions relating to licensing and registration the [Licensing Sub-Committee](#) considers gambling and licensing applications where representations are received. These meetings are arranged on an ad-hoc basis. Each Sub-Committee comprises three Members drawn from the membership of the Licensing Committee. A substitute is also appointed in the event that, for whatever reason, one of the Sub-Committee Members has to withdraw from the panel. All four Members need to be present, in person, at the meetings.

4.15 During the 2022/23 financial year the sub-committee was not required to meet. Two meetings were set up but following successful mediation or the withdrawal of the application the panels were stood down.

- 4.16 The number of sub-committee meetings held each year remains relatively low. In 2021/22 six meetings were held which could have been indicative of the changes in Covid regulations during that time. In 2020/21 two meetings were held, 2019/20 six applications were heard, three sub-committees took place in 2018/19 and three in 2017/18.
- 4.17 The cessation of The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panels Meetings) (England and Wales) Regulations 2020 (“the Regulations”) in May 2021 which permitted meetings to take place in a virtual format has meant that both the Licensing Committee meetings and Licensing Sub-Committees meetings have taken place in a hybrid format. This format required Members to be present in the face to face meetings whilst Officers and attendees or interested parties could join remotely or in person. Members that attended the Licensing Committee meetings remotely were able to take part in the debate but were not permitted to vote on relevant items.

Training

- 4.18 As this was the final year of the electoral cycle and the membership of the Licensing Committee was relatively stable only two training sessions were put in place for Members. Training for Members of the Licensing Committee was undertaken in May 2022. The training was delivered jointly by PPP staff and Legal Services. The aim of the session was to help Members identify licence types and authorisation processes, note the legal framework that underpins the licensing regime; grasp the licensing objectives; understand the licensing process and the councillors’ role in it; recognise valid representations and who can make them and be informed about the way hearings are conducted.
- 4.19 A cross authority Member Development Session to discuss the revised Draft Hackney Carriage and Private Hire Licensing Policy was held on the 17 May 2022 which received positive feedback from those Members that attended from both West Berkshire Council and Bracknell Forest Council.
- 4.20 Induction training for Licensing Committee Members post the 2023 election took place on 31st May 2023 and 15th June 2023. It should be noted that the Council’s Constitution (Appendix E4g) requires that “Before serving on any Sub-Committee, each Licensing Committee Member must receive such formal training and subsequently refresher training in the licensing system as determined by the Council.” All current Members of the Licensing Committee have attended the training.
- 4.21 Additional training sessions will be arranged during the year, if needed, following discussions between the Chairman and PPP and Legal Services Officers.

Taxi and Private Hire Liaison Group Meetings

- 4.22 The Group was set up to provide a forum to meet with and consider comments from representatives of the taxi trade and seek advice from Licensing Officers on a range of issues that affect existing and proposed licences, policies, tariffs, fees and other matters of common interest. The Group is also tasked with reporting back to the Licensing Committee with any recommendations for alterations to the existing or proposed licences, policies, tariffs and fees.

- 4.23 The Group comprises the Chairman and Vice Chairman of the Licencing Committee, Members of the Licensing Committee, the Public Protection Manager, the Licensing Manager and representatives from the Hackney Carriage and Private Hire Trade. The number of attendees from the Trade remains relatively low albeit that there has been a slight improvement in attendance at the meetings throughout the year. Officers continue to encourage trade representatives to attend the meetings and the minutes are circulated to the trade and Licensing Committee to keep them abreast of discussions that have taken place.
- 4.24 During the 2022/23 financial year the Group met on the 18 July 2022, 08 August 2022, 24 October 2022 and the 09 January 2023. A range of issues were discussed although the main discussion item during these sessions was the Draft Hackney Carriage and Private Hire Licensing Policy. Ongoing cyclical discussions on fees and tariffs also take place at these meetings. The Terms of Reference of the Group are attached as Appendix B to this report for information.

Resourcing and Income

- 4.25 For the financial year 2022/23 the shared licensing service saw a fall in income of £98K from pre-pandemic levels. Some of this decline had already started pre-covid, such as gambling premises which have been closing for a number of years through to taxi and private hire vehicles and scrap metal dealers. Covid saw a number of dual drivers leave the sector due to corporate use of private hire declining and competition increasing and there is no indication that many of these will return (239 in 2019 down to 178 in 2023). The number of hackney carriage vehicles have also declined from 159 in 2019 to 118 in 2023. The Service Lead for Pubic Protection is reviewing this as part of a wider budget review.
- 4.26 The service will undertake a fundamental review in 2023/24 to deliver an officer structure that takes account of the new income levels and the use of new technology through the cloud based IT system once it is fully operational. We also need to move to delivering a lot more in-house functionality such as animal welfare inspections and safeguarding and disability awareness training. This will be done through implementation of the Workforce Strategy.
- 4.27 Finally we will also need to review our discretionary fee base in the context of the reduced cohort of licence holders that provide the income base to deliver the service as well as the effects of inflation on the service cost base.
- 4.28 A great deal of work is going on to rebalance the service as a whole through the delivery of a workforce strategy focussed on a 'grow our own' where we are investing in apprenticeships, post graduate professional qualifications and post-entry training for both new and existing officers.

Development of Single Case Management System

- 4.29 The service has been transitioning to a new single case management system over the last year. Whilst this is largely complete there are still areas where further work is needed. Once completed the new system will allow licensing applicants to apply and pay on line and will send out automatic renewal reminders.

Communication and Engagement

4.30 A further aspect of the Committee's role, supported by officers, is that of assisting businesses to grow whilst complying with the legal requirements and conditions. The Service provides a range of advice and information sheets via its [website](#). We have also expanded our social media presence with active Facebook and Twitter pages.

Facebook: [@PublicProtectionPartnershipUK](#)

Twitter: [@PublicPP_UK](#)

4.31 Additionally officers regularly meet with applicants or licence holders to give guidance, such as attendance at Pubwatch meetings run by the trade, and meeting private hire operators at their offices and taxi drivers at the ranks. Officers from the Licensing Service also attend Safety Advisory Group meetings to provide advice to event organisers to promote public safety at the large number of events that are held across the District each year.

4.32 The Licensing Service also meets and works closely with partner authority home to school transport teams to ensure closer working relationships to protect the safety of vulnerable children.

4.33 PPP Licensing data shows that, for West Berkshire, it dealt with 282 requests for service in 2022/23 (compared with 229 in 2021/22, 265 in 2020/21, 168 in 2019/20, 199 in 2018/19 and 210 in 2017/18).

4.34 The work of the Licensing Service has always been a feature of the overall PPP customer satisfaction performance. Where issues have arisen there is a procedure for following these up. Service improvements are managed through the Quality Management System and recorded within our Improvement Action Logs.

Helping the Taxi Trade Go Greener

4.35 It was agreed at the June 2022 meeting that we would continue to report annually on initiatives adopted to help the taxi trade go greener. At the September 2022 Executive meeting Members considered a response to a motion tabled at full Council (in January) by Councillor Abbs. The motion sought to introduce a fee based incentive scheme to help all forms of vehicles licensed by West Berkshire for public transport to go green. The motion also asked that consideration be given to the provision (where practical) of fast charging points next to taxi ranks to remove range anxiety for taxi drivers.

4.36 In terms of the fee subsidy the Executive agreed to a 100% remittance for electric private hire and hackney carriage vehicle fees and a 50% remittance for hybrid vehicles. It was agreed that the number of vehicles should not be limited but that the scheme should be subject to an annual review and be in place for a maximum of three years commencing 1st April 2023.

4.37 At the time of writing, since April 2023 when the subsidy came into effect, we have had one new electric private hire vehicle and two new hybrid private hire vehicles licensed and one electric and one hybrid private hire renewal applied for. We are also aware of around eight electric or hybrid vehicles operating in the district but their licenses are due for renewal later in the year. Officers are therefore not proposing any changes to the current scheme but will endeavour to promote the scheme to the trade again.

- 4.38 The Licensing Team continues to work closely with colleagues in the Environment Delivery Team to identify any further opportunities to support the trade to reduce their carbon emissions.
- 4.39 The Environment Delivery Team (EDT) has recently appointed Ubitricity to install more 'on-street' residential chargepoints over the next four years. They will first be targeting areas where public requests for a point have already been received and then installing across the district area by area. The trade are encouraged to submit requests for these charging points.
- 4.40 The EDT are also currently going through procurement to appoint a contractor to install off-street chargepoints (public car parks, village Hall car parks) over the next four years. This could include taxi ranks and discussions are ongoing about suitable locations. We will invite the EDT to attend a future Taxi Trade Liaison Group meeting to facilitate these discussions.
- 4.41 The Service has also been awarded grant funding to work on [an anti-idling behavioural change project](#) that has been promoted to the taxi trade.

Legislative Changes

- 4.42 There are also a number of legislative changes which will have an impact on both the taxi trade and hospitality sector. Some examples are set out below.
- 4.43 The Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 (the act) received Royal Assent on 31 March 2022 (aka Sian's Law). The Act places a legal duty on licensing authorities to record certain information in a national database including decisions to refuse, refuse to renew, suspend and revoke licences of taxi and private hire drivers. The implementation of this Act has placed a number of new duties on the licensing authority which are set out in a separate report to this Committee.
- 4.44 On 28 June 2022, the Taxis and Private Hire Vehicles (Disabled Persons) Act 2022 ("The 2022 Act") took effect in England, Scotland, and Wales. It amended the Equality Act 2010 to introduce new, and amend existing, duties for local authorities and taxi and private hire vehicle (PHV) drivers and operators. The 2022 Act aims to ensure that disabled people can use taxi and PHV services with confidence that they will not be discriminated against. It is now a requirement for all authorities to publish a list of licenced taxis and PHVs they designate as being wheelchair accessible.
- 4.45 The enactment of this legislation requires taxi and PHV drivers to:
- Accept the carriage of any disabled person, provide them with reasonable mobility assistance, and carry their mobility aids, all without charging any more than they would for a non-disabled passenger.
 - Provide any disabled passenger who requests it with assistance to identify the vehicle, at no extra charge.
- 4.46 In addition PHV operators must accept bookings for or on behalf of any disabled person, if they have a suitable vehicle available.
- 4.47 Prepare and Protect Duty Following the Manchester Arena atrocity and the development of Martyn's Law, all business settings will have a duty to protect the public. It is anticipated that the 'Protect Duty' will be implemented in the next twelve

months. The Licensing Team will be working with partner agencies and engaging with licensed businesses throughout this process.

4.48 On the 07 June 2023 Department for Levelling Up, Housing and Communities have published the Regulations necessary to extend the Pavement Licensing regime enacted under the Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2023 beyond September 2023.

4.49 This process provides a streamlined and cheaper (capped at a maximum of £100) route for businesses such as cafes, restaurants and bars to secure a licence to place furniture on the highway. It is designed to provide additional income for businesses and protect as many hospitality jobs as possible, particularly during times of increasing living costs.

4.50 Nationally there has been a significant increase in the number of complaints about non-surgical body enhancements. The Department for Health and Social Care has stated that it is taking forward work to “Introduce a licensing scheme for non-surgical cosmetic procedures in England, which will strengthen oversight of practitioners and businesses providing these treatments, and make it an offence for anyone to carry out specified non-surgical procedures without a licence”.

Looking Ahead

4.51 Recruitment and development of staff will be a priority for the Service in 2023/24. It is anticipated that the implementation of the new IT system once fully operational will start to deliver efficiencies for the Service and provide a better experience for our customers including those applying for and holding licences with us.

4.52 Alongside this we have the policy reviews set out in this report and the fee review in the context of the changed licensing landscape and new duties.

5 Other options considered

None the report is to note only.

6 Conclusion

The Licensing Committee to discharge its their duties appropriately and in accordance with the Constitution. Officers have reported issues to the Committee and worked to implement decisions alongside maintaining a high standard of service to the licensed trade. This report sets out the ways in which these objectives have been met.

7 Appendices

7.1 Appendix A – Number of Licences in the West Berkshire Area

7.2 Appendix B – Terms of Reference of the TTLG

Background Papers:

None.

Subject to Call-In:

Yes: No:

The item is due to be referred to Council for final approval

Delays in implementation could have serious financial implications for the Council

Delays in implementation could compromise the Council's position

Considered or reviewed by Overview and Scrutiny Management Committee or associated Task Groups within preceding six months

Item is Urgent Key Decision

Report is to note only

Wards affected: All

Officer details:

Name: Sean Murphy
Job Title: Public Protection Manager
Tel No: 01635 519840
E-mail: Sean.Murphy@westberks.gov.uk

Number of Active Licences within the West Berkshire Council Area

Licence Type	At 31/03/2023	At 31/03/2022	At 31/03/2021	At 31/03/2020	At 31/03/2019
Private Hire Operator	62	51	56	61	58
Private Hire Vehicle Licence	154	138	127	163	156
Private Hire Driver	107	100	106	130	117
Dual (HC & PH) Driver	178	184	193	247	239
Hackney Carriage Vehicle	118	123	133	153	159
Animal Boarding Establishment and Dog Breeding	16	20	11	20	19
Home Boarding of Dogs Licence	34	33	26	31	31
Riding Establishment Licence	7	6	5	6	8
Pet Shop Licence	4	3	4	3	2
Dangerous Animals	4	1	-	-	-
Zoo Licence	2	1	-	-	-
Scrap Metal Dealer Site	3	5	5	5	7
Scrap Metal Dealer - Mobile	3	3	5	4	7
Dermal Personal and Premises Registration	371	357	334	242	313
Hairdresser Registration	38	36	-	-	-
Personal Licence	2336	2269	2207	2157	2077
Premises Licence	N/a	509	465	458	497
Premises Licence Application (No alcohol)	N/a	7	73	75	-
Temporary Event Notice (total issued)*	352	379	71	610	559
Club Premises Certificate	41	38	40	40	40
Street Trading Consent	26	25	20	24	26
Street Collections*	N/a	29	10	82	20
House to House Collections*	N/a	21	17	39	9
Small Society Lottery	129	116	108	108	148
Licensed Premises Gaming Machine Permit	8	8	9	10	8
Licensed Premises Gaming Machine Notice	83	83	83	84	85
Club Machine Permits	7	7	6	8	9
Club Gaming Permits	0	0	0	0	1
Gambling Premises	12	13	12	14	16
Caravan Licence	37	31	-	-	-
Licensable HMO	39	30	-	-	-
Civil Marriage	35	17	-	-	-

*data shows total received for the year

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Taxi and Private Hire West Berkshire Council Liaison Group

Terms of Reference

Purpose:	To establish the agreed Terms of Reference for the Taxi and Private Hire West Berkshire Council Liaison Group. (TTLG)
Release Date:	March 2021
Author:	Moira Fraser (Principal Officer, Policy and Governance)

1	Purpose
<p>To provide a forum to meet with and consider comments from representatives of the taxi trade and seek advice from licensing officers on a range of issues that affect existing and proposed licences, policies, tariffs and fees and other matters of common interest.</p> <p>To report back to the Licensing Committee with any recommendations for alterations to the existing or proposed licences, policies, tariffs and fees.</p>	
2	Terms of reference
<p>The terms of reference are:</p> <ol style="list-style-type: none">1. To consider the Council's current licence arrangements for Hackney Carriage Vehicles (HCV) and Private Hire Vehicles (PHV).2. To consider the current legal framework within which the Council operates.3. To consider the views of trade members.4. To consider the views of Licensing officers.5. To consider examples of best practice.6. To consider and recommend to the Licensing Committee how the current licences and policies could be amended to better accommodate trade members, whilst maintaining WBCs legal obligations, statutory duties and goal of delivering value for money for its residents.7. To consider the implications of new technology, innovative practices and any changes in legislation that will have an impact on the taxi trade and the Council's associated policies.	



3	Membership
<p>The TTLG is to be a joint Member/Officer/ Trade Representative Group formed from the following:</p> <ol style="list-style-type: none">1. The Chairman of the Licencing Committee (or their nominated representative)2. The Vice Chairman of the Licensing Committee (or their nominated representative)3. Three Members of the Licensing Committee4. The Public Protection Manager (or their nominated representative)5. The Licensing Team Manager (or their nominated representative)6. Representatives from the Hackney Carriage Trade7. Representatives from Private Hire Trade. <p>The Quorum for the meeting will be two representatives from the Council and two representatives from the trade.</p> <p>The forum will be chaired by the Chairman of the Licensing Committee or in their absence the Vice Chairman of the Committee. If the Chairman or Vice-Chairman are not present an election amongst the other members pf the Licensing Committee will be held at the start of the meeting to elect a Chairman to preside over the meeting.</p>	
4.	Meetings
<p>At least two meetings will be held annually including a meeting in November as part of the annual fee setting process. Ad hoc meetings to be arranged at the request of the Licensing Committee, the Chairman of the Licensing Committee, Officers or representatives of the trade.</p> <p>Where an ad hoc meeting is requested the Chairman in consultation with the Public Protection Manager will consider the request and if it is deemed necessary will agree a date and time for that meeting.</p>	

End of document

Hackney Carriage Tariffs 2023 - Update

Committee considering report:	Licensing Committee
Date of Committee:	10 July 2023
Portfolio Member:	Councillor Lee Dillon
Date Portfolio Member agreed report:	08 June 2023
Report Author:	Moira Fraser
Forward Plan Ref:	EX4298

1 Purpose of the Report

- 1.1 To feedback on the statutory consultation in relation to the hackney carriage table of fares and to note any decisions taken by the Executive on the matter.

2 Recommendations

The Licensing Committee is asked to:

- 2.1 **NOTE** the outcome of the statutory consultation to increase the table of fares by circa 8.5 % undertaken between the 11 May and 25 May 2023.
- 2.2 **NOTE** that as objections to the varied table of fares were received and not withdrawn the Executive determined the matter at the 08 June 2023 meeting where they agreed to approve the revised table of fares without modification.

3 Implications and Impact Assessment

Implication	Commentary
Financial:	<p>The cost of placing the public notices was around £950 which was met from within existing budgets. There are no other specific financial implications arising from this report.</p> <p>There is a potential for licensing income to reduce should the decision made have a detrimental impact on the number of drivers and operators working in the district. This will be monitored and managed through the Joint Management Board.</p>

Human Resource:	<p>There are no HR implications associated with the production of this report.</p> <p>Any actions will be met from within existing resources.</p>			
Legal:	<p>The procedure for setting fares and public notice requirements are stipulated within Section 65 of the Local Government (Miscellaneous Provisions) Act 1976.</p> <p>The procedure is prescriptive and requires that a decision to make/vary a table of fares is made first. Following this, there is a statutory consultation requirement, to allow for any objections to the new/varied table to be made. The remainder of the process is dependent on whether any objections are received (and not withdrawn) or not.</p> <p>There is no right of appeal so any legal challenge to the decision(s) made in relation to a new/varied table of fares would be by way of judicial review.</p> <p>As objections were received and not withdrawn the Executive was required to determine whether or not any modifications should be made to the table of fares.</p> <p>Beth Varcoe from Legal Services was consulted on this paper.</p>			
Risk Management:	<p>There would be a risk of challenge to the decision should the statutory process not be followed.</p>			
Property:	<p>There are no property implications associated with this report.</p>			
Policy:	<p>There are no policy implications associated with this report.</p>			
	Positive	Neutral	Negative	Commentary
Equalities Impact:				

A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		x		Report is to note only
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		X		Report is to note only.
Environmental Impact:		x		None
Health Impact:		x		There are no health implications associated with this report.
ICT Impact:		x		There are no ICT implications associated with this report.
Digital Services Impact:		x		The outcome of the consultation was published on both the PPP website and the Council's Engagement Hub.
Council Strategy Priorities:		x		The provision of a viable taxi trade in the district supports a number of the priorities in the Council Strategy, in particular they are associated with supporting businesses to start, develop and thrive in West Berkshire.
Core Business:		x		Providing support to the taxi trade forms part of the business as usual for the Public Protection Partnership. Keeping Members informed is also part of the Service's core business.

Data Impact:		x		All data obtained during the consultation will be dealt with in accordance with the PPP - Privacy Notice
Consultation and Engagement:	The procedure for setting fares and public notice requirements are stipulated within section 65 of the Local Government (Miscellaneous Provisions) Act 1976.			

4 Executive Summary

- 4.1 A report proposing changes to the tariff table agreed in July 2022 was discussed at [the Licensing Committee meeting on the 23 January 2023](#) prior to a decision being taken at the [Executive on the 23 March 2023](#) where Members agreed to go out to consult on an increase of around 8.5%. The Executive agreed that the consultation would take place from the 11th May to the 25th May 2023. The net effect of the proposed changes would mean the cost of a two mile journey, during tariff 1 operating hours, would increase from £8.00 to £8.60 in a saloon vehicle.
- 4.2 The Executive also agreed that the outcome of the statutory consultation and any subsequent decisions of the Executive would be reported back to the next meeting of the Licensing Committee i.e. this meeting.
- 4.3 The Council received seven objections to the proposed modifications to the table of fares and 14 more general comments from a total of 19 respondents. Four of the objections received, all from residents, related to the proposed increase in the fares. These objectors commented that, while they acknowledged the cost of living issues being experienced by the trade, as the price of fuel was now reducing they did not feel that the proposed increases could be substantiated.
- 4.4 One objector (a Private Hire Driver) felt that the increase was not high enough based on the fact that it was an 8.5% proposed increase when inflation was running at closer to 10%.
- 4.5 Two objections (one from an operator and one from a driver) were received stating that the fouling charges proposed were too low. They commented that depending on the time of day that the incident occurred it might not be possible to have the car cleaned. This would mean that it would have to be off the road for some time or the driver would have to hire another vehicle. They felt that the charge should take potential loss of earnings and other costs incurred into account alongside the cost of cleaning the vehicle.
- 4.6 Eleven comments were received supporting the modifications. Of the 19 responses received ten were from residents, two from drivers (did not state if PH or HC), two hackney carriage drivers, two private hire drivers and three operators. Four of the supporters of the increase were residents who were of the opinion that the increases appeared to be fair and reasonable given the increase in fuel charges, the high cost of living and the inevitable increase in other costs faced by the drivers.

- 4.7 The objections and comments are set out in full in Appendix A to the report.
- 4.8 The Executive considered the comments received as well as the objections and determined to approve the revised table of fares without modification. The Executive agreed to a revised implementation date of the 19 June 2023. Officers wrote to the taxi trade and the meter agents to advise them of the Executive decision. This decision means that the fees in West Berkshire were now the same as those in Reading albeit that Reading’s fares were last increased in 2022.
- 4.9 They Executive did however comment that they did have some sympathy with the view of the respondents commenting on the fouling charges. One of the issues that they would like to consider going forward would be to align the fouling charges to the three tariffs. This would mean for example during the hours associated with tariff 2 (midnight to 6am and specified holiday periods) when it would be more difficult to have a vehicle cleaned and when the risk of fouling was higher a higher fouling charge could be made. This will be fed into any discussion and consultation on the tariffs in 2024.

5 Other options considered

- 5.1 None. The Executive agreed that a report should be brought to this Committee.

6 Appendices

- 6.1 Appendix A – Outcome of the Statutory Consultation process
- 6.2 Appendix B – Table of Fares of the 19 June 2023.

Background Papers:

Report and Minutes to the Licensing Committee on the 23 January 2023

Report and Minutes to the Executive on the 23 March 2023

Report and Minutes to the Executive on the 08 June 2023

Subject to Call-In:

Yes: No:

- The item is due to be referred to Council for final approval
- Delays in implementation could have serious financial implications for the Council
- Delays in implementation could compromise the Council’s position
- Considered or reviewed by Overview and Scrutiny Management Committee or associated Task Groups within preceding six months
- Item is Urgent Key Decision
- Report is to note only

Wards affected: All

Officer details:

Name: Moira Fraser
Job Title: Policy and Governance Officer
Tel No: 01635 519045
E-mail: moira.fraser@westberks.gov.uk

Outcome of the Statutory Hackney Carriage Tariffs Consultation - 2023

Background

The current hackney carriage fare scales were agreed in July 2022. It has been agreed that, as of 2024 the review of fares will be aligned to the financial year to assist the trade with their financial planning. Due to the timing of the request this has not been possible in the financial year beginning April 2023, and it was instead agreed that the review should be completed by the end of July 2023 at the latest.

Initial discussions with the trade took place at the January 2023 Taxi Trade Liaison Group meeting. These were followed by further discussions at the [Licensing Committee on 23 January 2023](#) and the meeting of the [Executive Committee on 23 March 2023](#). It was agreed that under the [Local Government \(Miscellaneous Provisions\) Act 1976 Section 65 Hackney Carriage Fares](#), a statutory two week consultation on proposed modifications to the table of fares should be undertaken.

What We Proposed

	Current	Proposed
<p>Tariff 1</p> <p>Any journey with 1-4 passengers</p> <p>Applies for any hiring when journey commences between 06:00 and 21:59 Monday to Saturday (Excluding Bank Holidays, Public Holidays, 24th, 25th, 26th, 31st December and 1st January)</p>	<p>For the first 1489.235 yards or 264 seconds (whichever is reached first) £5.00</p> <p>For each subsequent 135.385 yards or every 24 seconds (whichever is reached first) 20p</p> <p>Waiting time per hour £30.00</p>	<p>For the first 1340.307 yards £5.00</p> <p>For each subsequent 243.692 yards 40p</p> <p>Waiting time per hour £33.00</p>
<p>Tariff 1b</p> <p>Any journey with 5 or more passengers</p>	<p>For the first 1489.235 yards or 264 seconds (whichever is reached first) £7.50</p>	<p>For the first 1340.307 yards £7.50</p>

	Current	Proposed
Applies for any hiring when journey commences between 06:00 and 21:59 Monday to Saturday (Excluding Bank Holidays, Public Holidays, 24 th , 25 th , 26 th , 31 st December and 1 st January)	For each subsequent 135.385 yards or every 24 seconds (whichever is reached first) 30p Waiting time per hour £45.00	For each subsequent 243.692 yards 60p Waiting time per hour £49.50
Tariff 2 Any journey with 1-4 passengers Applies for any hiring when journey commences between 22:00 and 05:59 Monday to Saturday, 06.00 and 21.59 Sundays, bank holidays, and public holidays, between 06:00 and 23.59 on 24 th , 26 th and 31 st December.	For the first 1489.235 yards or 264 seconds (whichever is reached first) £7.50 For each subsequent 135.385 yards or every 24 seconds (whichever is reached first) 30p Waiting time per hour £45.00	For the first 1340.307 yards £7.50 For each subsequent 243.692 yards 60p Waiting time per hour £49.50
Tariff 2b Any journey with 5 or more passengers Applies for any hiring when journey commences between 22:00 and 05:59 Monday to Saturday, 06.00 and 21.59 Sundays, bank holidays, and public holidays, between 06:00 and 23.59 on 24 th , 26 th and 31 st December.	For the first 1489.235 yards or 264 seconds (whichever is reached first) £11.25 For each subsequent 135.385 yards or every 24 seconds (whichever is reached first) 45p Waiting time per hour £67.50	For the first 1340.307 yards £11.25 For each subsequent 243.692 yards 90p Waiting time per hour £74.25

	Current	Proposed
<p>Tariff 3</p> <p>Any journey with 1-4 passengers</p> <p>Applies for any hiring when the journey commences between: 00.00 and 23.59 on 25th December; 00.00 and 05:59 on 26th December; 00.00 and 05:59 on 1st January</p>	<p>For the first 1489.235 yards or 264 seconds (whichever is reached first) £10.00</p> <p>For each subsequent 135.385 yards or every 24 seconds (whichever is reached first) 40p</p> <p>Waiting time per hour £60.00</p>	<p>For the first 1340.307 yards £10.00</p> <p>For each subsequent 243.692 yards 80p</p> <p>Waiting time per hour £66.00</p>
<p>Tariff 3b</p> <p>Any journey with 5 or more passengers</p> <p>Applies for any hiring when the journey commences between: 00.00 and 23.59 on 25th December; 00.00 and 05:59 on 26th December; 00.00 and 05:59 on 1st January</p>	<p>For the first 1489.235 yards or 264 seconds (whichever is reached first) £15.00</p> <p>For each subsequent 135.385 yards or every 24 seconds (whichever is reached first) 60p</p> <p>Waiting time per hour £90.00</p>	<p>For the first 1340.307 yards £15.00</p> <p>For each subsequent 243.692 yards 120p</p> <p>Waiting time per hour £99.00</p>
<p>Extra Charges</p>	<p>If a hackney carriage is booked by telephone, text, email or other electronic means a booking fee may be charged by prior arrangement only</p> <p>Congestion Charge, Ultra Low Emission Zone, or any tolls will be applied for any journey where such charges or tolls are incurred. These</p>	<p>If a hackney carriage is booked by telephone, text, email or other electronic means a booking fee may be charged by prior arrangement only</p> <p>Congestion Zone Charges, Tolls or similar will be applied for any journey where such charges or tolls are incurred.</p>

	Current	Proposed
	<p>charges would not appear on the meter.</p> <p>A charge for "fouling" was introduced, meaning that passengers who soiled the interior or exterior of a taxi could be charged.</p> <p>Interior - maximum £75 Exterior - maximum £25</p>	<p>Fouling charge to be retained and charged at: Interior - maximum £100 Exterior - maximum £25</p>

The net effect of the proposed changes would mean the cost of a two mile journey, during tariff 1 operating hours, would increase from £8.00 to £8.70 in a saloon vehicle.

Why We Wanted Your Views

The Council is committed to balancing the legitimate aims of the taxi trade to maintain profitability in the face of increasing costs, while protecting the public from excessive fares. The issue of setting fares for hackney carriage drivers is an important one for two reasons: the fare set by licensing authority largely determines the ability of drivers to earn a decent living, but also aims to ensure that passengers receive a fair deal when taking a journey in a licensed hackney carriage. We' therefore welcomed your views in order to ensure that we are balancing these two objectives.

The procedure for setting fares and public notice requirements are stipulated within [section 65 of the Local Government \(Miscellaneous Provisions\) Act 1976](#).

The procedure is prescriptive and requires that a decision to make/vary a table of fares is made first. Following this, there is a statutory consultation requirement, to allow for any objections to the new/varied table to be made. The remainder of the process is dependent on whether any objections are received (and not withdrawn) or not.

Who and How we Consulted

- A notice was placed in the Newbury Weekly News and the Reading Chronicle on the 11 May 2023 and on the Public Protection Partnership's website on the same day.
- It was also posted on the Council's Consultation Hub on the 11 May 2023
- A copy of the notice was also placed in the Market Place Reception by the 11 May 2023.
- An email was sent to all licensed Hackney Carriage Proprietors to alert them to the consultation.
- A notification was also sent out to the 1195 people on the Community Panel
- The consultation ran from the 11 May to 25 May 2023.

What you Told Us

The Council received **seven objections** to the proposals and **14 more general comments** from a total of 19 respondents. Four of the objections related to the proposed increase in the fares, one felt that the increase was not high enough and two objections were received stating that the fouling charges were too low. We received 11 comments supporting the modifications. Of the 19 responses received ten were from residents, two from drivers (did not state if PH or HC), two hackney carriage drivers, two private hire drivers and three operators.

Objection
Resident Fares need to decrease - fuel costs are going down not up. The proposed increases are only increasing the cost of living crisis and increasing private car journeys in West Berkshire
Resident Taxis are too expensive
Resident Looking at the proposed charges they're doubling in price but surely the cost of petrol/diesel hasn't doubled. I understand the need for the costs to keep up with inflation but think that doubling the price is a bit too much
Resident Appalling, this will raise fare from Cold Ash to Newbury higher than going by to Cardiff and back by private car

Objection	
WBC PH Driver	Why only 8.5% when the inflation rate is at 10% .??? And why not give full EV vehicles a Hackney Carriage plate maybe first 50 cars to start with see how it works i.e. .anyone who buys a new EV car should be able to get a new Hackney Carriage Licence plate issued if they want one instead of having to buy a wheelchair access vehicle to be Hackney Carriage.
WBC Operator	The fouling charge I still don't think this is high enough, One of my cars on the fleet had someone be sick in it at 22.00 on Saturday. The car is then out of use until it can be valeted meaning the driver lost the rest of the night where he could earn between £200-£300 plus he is hit with a cleaning bill of £130.00.
WBC Driver	<p>I agree with most of the changes, but I feel like the fouling charges still need to be reviewed. As explained in previous emails if someone was to foul in the taxi after 5pm you won't find anywhere to get your car valeted, which means you would be at a loss of money. And it would be a loss as even though the vehicle wouldn't be in use, you still have to pay insurance sign on fee for your operator, taxi plate, taxi badge etc.</p> <p>The longer the waste remains in the car the bigger the risk of smells adhering to the material of the seats. Once you get round to clean the car, most valeting places won't want to clean it up, and as most of them advertise there will be extra charges if the car is really dirty.</p> <p>Your left with no other option on the day than to try and rent a car for the night, so the cost of someone fouling, increase as not only do you have to clean the car and pay a premium to get rid of any odours but add rent for the night (if your able to find one)</p>

We also received the following **comments** in relation to the consultation which are set out below:

General Comments	
Cost	
Resident	I think the changes seem fare. It simplifies some of the tariffs and allows a fair cost of living increase for longer journeys or larger groups.

General Comments	
Resident	It seems fair to me. We use taxi's a lot and the local drivers are great. We don't begrudge them an increase. Especially with the current cost of living being so high.
WBC PH Driver	I agree with the proposed fares.
Resident	The increases appear to be fair and reasonable given the increase in fuel charges and the inevitable increase in insurance costs
WBC HC Driver	I agree with the increase and although appreciate that fuel has come down pretty much nothing else has. Everyday living costs have gone up a huge amount compared to this time last year mortgage payments grocery items and gas and electricity costs have gone up a huge amount compared to this time last year.
WBC Operator	I strongly support a tariff increase. The cost of fuel has slightly reduced However the cost of living mortgages rents gas electric etc are still at an all time high. Repair bill and services cost on the vehicle are also at an all time high and cars are off the road longer waiting on parts hence more down time for drivers. Wages for staff again at an all time high and not in line with current tariff costs.
WBC Driver	I'm happy to see that there has been a slight increase on the fairs, as unfortunately for everyone everything else has/is and will go up. Yesterday as an example I had to change all 4 tyres in my taxi and budget ones now cost £308 compares to £280 I used to pay. If you were to put mid range you would be looking at £120 a tyre. Insurance for vehicles in general is on the rise, car parts are on the rise, with the added problem of waiting time for some parts to be supplied due to the lack of materials atm, etc
WBC Operator	Happy with the 8.5% increase
WBC HC Driver	I believe we do need a fare increase due to daily cost of living rising. Fuel has recently been reduced but servicing and maintenance cost have risen along with tyres.
WBC Operator	I am in favour of 8 and half % because everything keeps going up And rate of inflation is 10 % I have invested a lot of money in buying an electric car and feel there could be more incentives. Maybe electric cars should be Hackney and the Hackney licence be

General Comments
non-transferable This is just an idea. I love my electric car and most days I can work from 8am til 4pm on same charge. It is the way forward for everyone
Resident
I think the proposed changes are fair reflection of the current state of the economy
Public and Other Transport
Resident
The new Lib Dem council should open up the market and allow companies such as Uber, Bolt (taxify) and Free now to operate in West Berkshire. It's a scandal we can't have access to these services to ensure the competitiveness of taxi services.
Vehicle Standards
Resident
all though I think the current charges are very expensive early Sunday morning RBH to near Thatcham £67 (mid-February 23) I can sympathise with the driver trying to make a living, BUT the taxi was the equivalent of a rattly old van.
General Support
Taxi Trade
No objections from me!

What We Are Proposing To Do

The Local Government (Miscellaneous Provisions) Act 1976 section 65 gives a Local Authority the power to determine the table of fares for the hire of hackney carriages. This legislation also prescribes the statutory consultation process that must be followed and the procedures for ensuring that objections are properly considered in relation to a Local Authority's adoption of or variation to a table of fares before the table comes into effect.

As objections to the tariffs have been received and not withdrawn, the Executive is required to decide whether or not the revised table of fares should be modified before it is implemented and decide the date for implementation. A report was taken to the [08 June 2023 Executive meeting](#) for a decision.

The Executive, while noting the objections, agreed to the modifications as set out in the table. They also decided that the modified table of fares would come into effect on the 19th June 2023 in accordance with the requirements under s.65 Local Government (Miscellaneous Provisions) Act 1976. We have written to the trade to update them.

Hackney Carriages Table of Fares With Effect from 19 June 2023

MAXIMUM fare for any part of a journey dependent on Time, Day and Date:

A lesser fare can be agreed prior to commencement of the journey.

<p>Taxi Plate Number</p> <p>???</p> <p>Licensed to Carry ? Passengers</p> <p>Any comments regarding this vehicle or driver should be made to:</p> <p>West Berkshire Council, Council Offices, Market Street, Newbury, Berkshire, RG14 2AF</p> <p>Or via email to licencing@westberks.gov.uk Quoting the above Taxi Plate number or drivers badge number</p>	<p>Tariff 1 (Standard Time Saloon) Indicated by a "T1" on the taxi meter</p> <p>Any journey with 1-4 passengers</p> <p>1. 06:00 and 21:59 Monday to Saturday</p> <p>(Excluding Bank Holidays, Public Holidays, 24th, 25th, 26th, 31st December and 1st January)</p>	<p>Tariff 2 (Time and 1/2 Saloon) Indicated by a "T2" on the taxi meter</p> <p>Any journey with 1-4 passengers</p> <p>1. 00:00 and 06:00 Monday to Sunday. 2. 22:00 and 23:59 Monday to Sunday. 3. 06:00 and 21:59 Sundays, Bank Holidays, Public Holidays, 24th, 26th, 31st December & 1st January.</p>	<p>Tariff 3 (Double Time Saloon) Indicated by a "T3" on the taxi meter</p> <p>Any journey with 1-4 passengers.</p> <p>1. 00:00 and 23:59 on 25th December 2. 00:00 and 05:59 on 26th December. 3. 00:00 and 05:59 on 1st January.</p>
	<p>Tariff 1 Multi (Standard Time Multi) Indicated by a "T1 b" on the taxi meter</p> <p>Any journey with 5 or more passengers</p> <p>1. 06:00 and 21:59 Monday to Saturday</p> <p>(Excluding Bank Holidays, Public Holidays, 24th, 25th, 26th, 31st December and 1st January)</p>	<p>Tariff 2 Multi (Time and a ½ Multi) Indicated by a "T2 b" on the taxi meter</p> <p>Any journey with 5 or more passengers</p> <p>1. 00:00 and 06:00 Monday to Sunday. 2. 22:00 and 23:59 Monday to Sunday. 3. 06:00 and 21:59 Sundays, Bank Holidays, Public Holidays, 24th, 26th, 31st December & 1st January.</p>	<p>Tariff 3 Multi (Double Time Multi) Indicated by a "T3 b" on the taxi meter</p> <p>Any journey with 5 or more passengers</p> <p>1. 00:00 and 23:59 on 25th December 2. 00:00 and 05:59 on 26th December. 3. 00:00 and 05:59 on 1st January</p>
<p>Initial Flag The first 1340.307 yards (1225.576 meters)</p>	T1 £5.00 / T1b £7.50	T2 £7.50 / T2b £11.25	T3 £10.00 / T3b £15.00
<p>For each subsequent 243.692 yards (222.831 meters) completed or part thereof</p>	T1 40p / T1b 60p	T2 60p / T2b 90p	T3 80p / T3b 120p
<p>Waiting time: for every period of 43.636 seconds or part thereof</p>	T1 40p / T1b 60p T1 (£5.50 per 10 mins, £33.00 per hour) T1b (£8.25 per 10 mins, £49.50 per hour)	T2 60p / T1b 90p T2 (£8.25 per 10 mins, £49.50 per hour) T2b (£12.37 per 10 mins, £74.25 per hour)	T3 80p / T3b 120p T3 (£11.00 per 10 mins, £66.00 per hour) T3b (£16.50 per 10 mins, £99.00 per hour)

Where the taxi is used for pre-booked journeys the fare shall be calculated from the point in the district at which the hirer commences their journey. (Local Government (Miscellaneous Provisions) Act 1976 sec. 67)

If a Hackney Carriage is booked by telephone, text, email or other electronic means a booking fee may be charged by prior arrangement only.

Congestion Zone Charges, Tolls or similar will be applied for any journey where such charges or tolls are incurred.

Fouling will be charged at £100 Interior and £25 Exterior

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Hackney Carriages Table of Fares With Effect From 19 June 2023

MAXIMUM fare for any part of a journey dependant on Time, Day and Date:

A lesser fare can be agreed prior to commencement of the journey.

<p>Taxi Plate Number</p> <p>???</p> <p>Licensed to Carry ? Passengers</p> <p>Any comments regarding this vehicle or driver should be made to:</p> <p>West Berkshire Council, Council Offices, Market Street, Newbury, Berkshire, RG14 2AF</p> <p>Or via email to licencing@westberks.gov.uk Quoting the above Taxi Plate number or drivers badge number</p>	<p>Tariff 1</p> <p>(Standard Time Saloon) Indicated by a “T1” on the taxi meter</p> <p>Any journey with 1-4 passengers</p> <p>1. 06:00 and 21:59 Monday to Saturday</p> <p>(Excluding Bank Holidays, Public Holidays, 24th, 25th, 26th, 31st December and 1st January)</p>	<p>Tariff 2</p> <p>(Time and 1/2 Saloon) Indicated by a “T2” on the taxi meter</p> <p>Any journey with 1-4 passengers</p> <p>1. 00:00 and 06.00 Monday to Sunday.</p> <p>2. 22:00 and 23:59 Monday to Sunday.</p> <p>3. 06.00 and 21.59 Sundays, Bank Holidays, Public Holidays, 24th, 26th, 31st December & 1st January.</p>	<p>Tariff 3</p> <p>(Double Time Saloon) Indicated by a “T3” on the taxi meter</p> <p>Any journey with 1-4 passengers</p> <p>1. 00.00 and 23.59 on 25th December</p> <p>2. 00.00 and 05:59 on 26th December.</p> <p>3. 00.00 and 05:59 on 1st January.</p>
<p>Initial Flag The first 1340.307 yards (1225.576 meters)</p>	<p>£5.00</p>	<p>£7.50</p>	<p>£10.00</p>
<p>For each subsequent 243.692 yards (222.831 meters) completed or part thereof</p>	<p>40p</p>	<p>60p</p>	<p>80p</p>
<p>Waiting time: for every period of 43.636 seconds or part thereof</p>	<p>40p £5.50 per 10 mins, £33.00 per hour</p>	<p>60p £8.25 per 10 mins, £49.50 per hour</p>	<p>80p £11.00 per 10 mins, £66.00 per hour</p>

Where the taxi is used for pre-booked journeys the fare shall be calculated from the point in the district at which the hirer commences their journey. (Local Government (Miscellaneous Provisions) Act 1976 sec. 67)

If a Hackney Carriage is booked by telephone, text, email or other electronic means a booking fee may be charged by prior arrangement only

Congestion Zone Charges, Tolls or similar will be applied for any journey where such charges or tolls are incurred.

Fouling will be charged at £100 interior and £25 exterior

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Update on the National Register of Taxi Licence Revocation, Refusals and Suspensions (NR3S)

Committee considering report:	Licensing Committee
Date of Committee:	10 July 2023
Chair of Committee:	Councillor Phil Barnett
Report Author:	Moira Fraser
Forward Plan Ref:	LC4388

1. Purpose of the Briefing

- 1.1 This report informs Members of the implications and implementation of the national register of taxi licence refusals, revocations and suspensions (NR3S) which is a requirement under the [Taxis and Private Hire Vehicles \(Safeguarding and Road Safety\) Act 2022](#) hereafter known as “the Act.”
- 1.2 The report also sets out the procedure that will be followed by the Council when requesting or disclosing information associated with the register.

2. Background

- 2.1 The Local Government Association (LGA), the representative body for local councils, has commissioned a new national register of taxi licence refusals, revocations and suspensions (NR3S). The register is being hosted by the National Anti-Fraud Network (NAFN). The intention is to prevent drivers who have had a hackney carriage or private hire drivers licence revoked, suspended or an application for one refused, going to another council to dishonestly obtain a licence by failing to disclose their previous licensing history. It is hoped that use of the register will improve public safety and confidence in hackney carriage and private hire licensing.

3. Implications and Impact

Implication	Commentary
Financial:	<p>There are no specific financial implications arising from this report. Any follow up actions will be met from within existing resources.</p> <p>The Department for Transport is covering the cost of accessing the NR3S.</p>
Human Resource:	<p>NAFN staff are employees of Tameside Metropolitan Borough Council (TMBC)</p> <p>As part of the registration process, each licensing authority is required to nominate a relevant officer who will be designated as the NR3S Single Point of Contact (SPoC).</p> <p>The SPoC signs the Joint Controller Agreement on behalf of their licensing authority.</p> <p>The Licensing Manager has been appointed as West Berkshire Council's SPoC</p>

Legal:	<p>Statutory Basis</p> <p>The legal basis for the Register is the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022. Section 4 of the 2022 Act provides for the existence of the Register and gives the Secretary of State power to designate a person to run it. NAFN has been designated under this section.</p> <p>Data Protection</p> <p>NAFN, and each Signatory Authority, are Joint Controllers in relation to the Personal Data that the Signatory Authority records in the Database; and TMBC as Host Authority is the Processor in respect of the Personal Data in the Database.</p> <p>NAFN and each Signatory Authority are Joint Controllers of the Database as imposed on them by the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 (TPHVA) read in conjunction with section 6(2) of the Data Protection Act 2018 (“DPA 2018”).</p>
Risk Management:	<p>The Act contains provisions that require licensing authorities to record information relating to drivers’ licensing histories (refusals, revocations or suspensions) on a National Register. Before the licensing authority can decide whether to grant or renew a driver licence, it must search the Register for any entry relating to the applicant.</p> <p>Failure to do so could put customers at risk and the Council would be in breach of its statutory duties.</p>
Property:	None
Policy:	The Council is required to act in accordance with the Act and the Guidance for Users of the National Register of Taxi Licence Refusals, Revocations, and Suspensions (NR3S)
Consultation and Engagement	It is a statutory requirement for this guidance to be adhered to. No consultation will be undertaken. Information has been included on the PPP website.

4. Background Information

Introduction

- 4.1 The Local Government Association has commissioned the development of a national register of hackney carriage and private hire vehicle driver licence refusals, revocations and suspensions known as the ‘National Register of Refusals, Revocations and Suspensions or NR3S. The NR3S is a register of information about instances when a licensing authority has refused, suspended, chosen not to renew, or revoked a hackney carriage (taxi) or private hire (PHV) driver’s licence, based wholly or in part on information about the driver regarding safeguarding or road safety.
- 4.2 As of the 27 April 2023 all Licensing Authorities in England are mandated to use the NR3S under the Taxi and Private Hire (Safety and Road Safety) Vehicle Act 2022 (hereafter known as the Act).

- 4.3 The information on the database is important in the context of a subsequent application to another authority for a drivers' licence by a person who has had their licence refused, revoked or suspended in the past. The Act says that an entry on the Register should be kept for 11 years from the time when it was first made.
- 4.4 West Berkshire Council has signed up to use NR3S. This means that when an application for a taxi or private hire drivers' licence is refused, or when an existing taxi or private hire driver's licence is suspended or revoked, that information will be placed on the register. It also means that when an application for a new drivers' licence, or renewal of an existing drivers' licence is received, the Licensing Team will search the NR3S.
- 4.5 The Secretary of State under Section 4 of the Act has designated the National Anti-Fraud Network Data and Intelligence Services ("NAFN") to run the register. NAFN is a not for profit, unincorporated body formed by its members to provide services which support their work in the protection of the public interest. West Berkshire Council is a member of NAFN.
- 4.6 The Register which was run on a voluntary basis since 2018 was originally known as the National Register of Taxi Licence Revocations and Refusals (or the NR3 Register). It has been enhanced to meet the requirements of the 2022 Act, and rebranded as the National Register of Taxi Licence Refusals, Revocations, and Suspensions (or the NR3S Register).
- 4.7 The Act says that the following can search the database, make entries on it, and amend, remove and reinstate entries that they have made:
- 1) Licensing authorities;
 - 2) Relevant authorities;
 - 3) The Department for Infrastructure in Northern Ireland.
- 4.8 Information is added by the authorities listed above when a licensing authority decides to do any of the following, based on certain specified information about safeguarding or road safety:
- 1) to refuse a person's application for a driver's licence;
 - 2) to refuse a person's application for the renewal of a driver's licence;
 - 3) to suspend a person's driver's licence;
 - 4) to revoke a person's driver's licence.
- 4.9 The licensing authority must add the information set out in paragraph 5.6 about the person whose licence it has refused, suspended or revoked to the database.
- 4.10 Before making a decision on a person's application for a taxi or PHV licence (or for renewal of such a licence), a licensing authority must check the Register for entries about that person. If there is an entry the licensing authority must write to the authority that made the entry, asking for the relevant information on which the recording authority based its decision about the person; and the authority that made the entry must provide it with that information.
- 4.11 The inclusion of information about a taxi or private hire driver on the register does not automatically mean that the licensing authority will refuse their application. Licensing authorities are legally required to consider each taxi and PHV driver's licence

application on its own merits, and cannot refuse an application simply because an applicant is recorded on the NR3S Register.

4.12 The purpose of the Register is to ensure that authorities have the full information necessary to help them reach a decision on whether an individual is 'fit and proper' to have a licence. For instance, if circumstances have materially changed since the decision that has been recorded on the Register, it may be appropriate for another authority to award the same individual a licence.

4.13 Members of the public are not permitted to consult the register.

4.14 Drivers can however, under the data protection legislation, make a "subject access request" to NAFN or to any authority that they think may have put information about them on the Register, asking to see the information that is held on it.

5. Process that will be used:

When an application for a new drivers' licence, or renewal of an existing drivers' licence is received

5.1 When an application for a new drivers' licence, or renewal of an existing drivers' licence is received, the Licensing Team are now required to search the NR3S. Officers will be trained to use the NR3S and they will be required to act in accordance with the legislation, guidance and Joint Controller Agreement signed by the SPoC. The authority will retain a clear written record of every search that is made of the register. This will detail:

- 1) the date of the search;
- 2) the name or names searched;
- 3) the reason for the search (new application or renewal);
- 4) the results of the search;
- 5) the use made of the results of the search (this information will be entered to the register at a later date).

5.2 This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 11 years.

5.3 If details are found that appear to relate to the applicant, a written request will be made to the authority that entered that information for further details.

5.4 Any information that is received from any other authority in relation to an application will only be used in relation to that application, and the determination of it, and will not be used for any other purpose. The Council will take the information into account when determining the application for the grant or renewal of a taxi drivers' licence. This will be in accordance with the usual process for determining applications.

5.5 Any data that is received will only be kept for as long as is necessary in relation to the determination of that application. This will include the period of time processing that application, making a decision, notifying the applicant of the outcome of that decision, and the appeal processes.

Where an application for a licence is refused, or an existing licence is suspended or revoked, the Council must record this decision on NR3S.

- 5.6 The licensing authority must add the following information about the person whose licence it has refused, suspended or revoked:
- 1) the person's full name, date of birth, home address and national insurance number;
 - 2) if the person holds a licence to drive a motor vehicle granted under Part 3 of the Road Traffic Act 1988, the driver number shown on the licence;
 - 3) if the person holds a Northern Ireland driving licence, the driver number shown on the licence;
 - 4) if the person holds a Community licence, the number of the licence;
 - 5) the name of the licensing authority and details of how further information about the decision can be obtained from the authority;
 - 6) the date on which the decision was made and (if different) the date on which it takes effect;
 - 7) the date on which any subsequent change to the decision was made and (if different) the date on which it takes effect;
 - 8) if the decision is to suspend the person's driver's licence for a period, the date on which the suspension is to end;
 - 9) any other information that the Secretary of State prescribes by regulations.

Appeals by Individuals who object to their information being added to the register

- 5.7 Where an appeal to the magistrates' court is made by an individual who objects to their information being added to the NR3S register, the appeal needs to be made within 28 days of receiving notification of the council's intention to add details to the NR3S register.
- 5.8 The data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court, there is a further right of appeal to the Crown Court. In these circumstances, the data will be retained for a period of no more than 35 days from the date of the decision of the magistrates' court. If an appeal is made to the Crown Court, the data will be retained longer than 35 days until that appeal is determined or abandoned.
- 5.9 Where the appeal is determined by the magistrates' court or the Crown Court, it is possible to appeal the decision by way of case stated. Accordingly, the data will be retained for a period of no more than 35 days from the date of the decision of the Crown Court (if the decision was made by the magistrates' court, the retention period has already been addressed). If an appeal by way of case stated is made, the data will be retained until all court proceedings relating to that appeal by way of case stated (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined.
- 5.10 The data will be held securely in accordance with the Council's general policy on the secure retention of personal data. At the end of the retention period, the data will be erased and/or destroyed.

When a request for further information is received from another authority

- 5.11 The 2022 Act says that the person running the Register must make sure that the information in the Register is disclosed only for:
- 1) the safeguarding of passengers; and

2) road safety.

- 5.12 When the Council receives a request for further information from another authority a clear written record will be made of the request having been received. This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 11 years.
- 5.13 The Council will then determine how to respond to the request. The Council will not simply provide information as an automatic response to every request. Any disclosure must be considered and proportionate, taking into account the data subject's rights and the position and responsibilities of a taxi driver. Each application will be considered on its own merits.
- 5.14 The Council will also conduct a Data Protection Impact Assessment. This will consider how the requesting authority will use the data, how it will store that data to prevent unauthorised disclosure, the retention period for that data, and the mechanism for erasure or destruction of the data at the end of that period. It is expected that if the requesting authority has adopted a procedure similar to this, that should be a reasonably straightforward process.
- 5.15 Where the reason for refusal to grant, suspension or revocation relates to a conviction which is within the timescales determined in the [Council's Convictions Policy](#) the information will be disclosed. Where the reason for refusal to grant, suspension or revocation relates to a conviction which is outside the timescales determined in the Convictions Policy, the information will not usually be disclosed. However, in every case, consideration will be given to the full circumstances of the decision, and there may be occasions where information is provided other than in accordance with this procedure.
- 5.16 Any information about convictions will be shared in accordance with schedule 1, part 2, paragraphs 11 and 12 of the Data Protection Act (DPA) 2018; that is:
- i) Protecting the public against dishonesty etc.
 - (1) This condition is met if the processing—
 - (a) is necessary for the exercise of a protective function,
 - (b) must be carried out without the consent of the data subject so as not to prejudice the exercise of that function, and
 - (c) is necessary for reasons of substantial public interest.
 - (2) In this paragraph, “protective function” means a function which is intended to protect members of the public against—
 - (a) dishonesty, malpractice or other seriously improper conduct,
 - (b) unfitness or incompetence,
 - (c) mismanagement in the administration of a body or association, or
 - (d) failures in services provided by a body or association.
 - ii) Regulatory requirements relating to unlawful acts and dishonesty etc.
 - (1) This condition is met if—

- (a) the processing is necessary for the purposes of complying with, or assisting other persons to comply with, a regulatory requirement which involves a person taking steps to establish whether another person has—
 - (i) committed an unlawful act, or
 - (ii) been involved in dishonesty, malpractice or other seriously improper conduct,
- (b) in the circumstances, the controller cannot reasonably be expected to obtain the consent of the data subject to the processing, and
- (c) the processing is necessary for reasons of substantial public interest.

(2) In this paragraph “act” includes a failure to act; “regulatory requirement” means—

- (a) a requirement imposed by legislation or by a person in exercise of a function conferred by legislation, or
- (b) a requirement forming part of generally accepted principles of good practice relating to a type of body or an activity.

5.17 The officer will record what action was taken and why. A written record of every decision that is made, as a result of a request from another authority will be retained and will detail:

- 1) the date the request was received;
- 2) how the data protection impact assessment was conducted and its conclusions;
- 3) the name or names searched;
- 4) whether any information was provided;
- 5) if information was provided, why it was provided (and details of any further advice obtained before the decision was made);
- 6) if information was not provided, why it was not provided (and details of any further advice obtained before the decision was made);
- 7) how and when the decision (and any information) was communicated to the requesting authority.

5.18 This record will not be combined with any other records and will be retained for the retention period of 11 years.

6. Conclusion

6.1 NR3S has been developed and promoted to improve public safety and confidence in taxi and PHV licensing. The benefits of sharing this data are widely acknowledged and the Department for Transport has recognised the value of the NR3S using legislation to mandate its use.

7. Appendices

7.1 None

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WBC Licensing Committee Forward Plan November 2023 to November 2024

No.	Ref No	Item	Purpose	Lead Officer	Comments
LC 06 November 2023					
1.	JPPC4252	Fees and Charges 2024/25	To set out the Fees and Charges which have been proposed by the Joint Public Protection Committee at the September 2023 meeting and agree the methodology for consultation for the fees the council has a statutory duty to consult on.	Moira Fraser	
2.	N/a	Taxi Liaison Update	To summarise the work of the Taxi Trade Group set up by the Licensing Team to advise on a way forward for issues raised by the trade.	Moira Fraser	
3.	EX4367	Hackney Carriage Tariffs - 2024	To consider proposals for adjustments to the tariffs and the proposed consultation process.	Moira Fraser	
4.	C4273	Hackney Carriage and Private Hire Licensing Policy	To consider progress with updating the policy.	Julia O' Brien	
5.	C4253	Adoption of the Revised Licensing Policy under the Licensing Act 2003	To consider any comments received during the consultation, agree amendments and recommend the policy to Council for approval.	Julia O'Brien	
6.		Street Trading Policy	To consider any revisions to the policy.	Moira Fraser	
LC 22 January 2024					
7.	JPPC4252	Fees for Taxi and Private Hire Vehicles, Drivers and Operators	To consider any issues arising from the consultation and their impact on the proposed fees which will be recommended to full Council for approval.	Moira Fraser	This report will only be submitted if there are objections to the fees subjected to the statutory consultation
8.	EX4367	Hackney Carriage Tariffs - 2024	To consider the outcome of the informal consultation and agree any comments for the Executive to consider arising from that consultation.	Moira Fraser	

No.	Ref No	Item	Purpose	Lead Officer	Comments
9.	N/a	Taxi Liaison Meeting Update	To provide an update on the discussion at the January Taxi Trade Liaison meeting.	Moira Fraser	If needed
10.	C4273	Hackney Carriage and Private Hire Licensing Policy	To consider the comments received on the second consultation on the policy and recommend that Council adopt it.	Julia O' Brien	
11.		Charity Collections Policy	To consider the existing policy and make any amendments.	Julia O'Brien	
LC July 2024 (date TBC)					
12.	EX4367	Hackney Carriage Tariffs - 2024	To provide feedback on the 2024 process and any decisions made by the Executive/ Portfolio Holder.	Moira Fraser	
13.	LC4389	Annual Report 2023/24	To set out the work of the Licensing Committee in 2023/24 as well as the work of the Licensing Service as delivered through the Public Protection Partnership.	Moira Fraser	
14.	N/a	Taxi Liaison Meeting Update	To provide an update on the discussion at the January Taxi Trade Liaison meeting.	Moira Fraser	If needed
15.	LC4390	Update on Helping the Taxi Trade Go Greener	To consider and discuss progress that has been made with assisting the trade to go greener and any new initiatives that can be introduced. To consider the Age of vehicles and emissions element of the Taxi Policy and any adjustments that need to be made to it.	Moira Fraser	
16.	Form to be submitted	Scrap Metal Licence Policy	To consider the draft policy.	Julia O'Brien	
LC November 2024 (TBC)					
17.		Fees and Charges 2025/26	To set out the Fees and Charges which have been proposed by the Joint Public Protection Committee at	Moira Fraser	

No.	Ref No	Item	Purpose	Lead Officer	Comments
			the October 202d meeting and agree the methodology for consultation for the fees the council has a statutory duty to consult on.		
18.		Taxi Liaison Update	To summarise the work of the Taxi Trade Group set up by the Licensing Team to advise on a way forward for issues raised by the trade.	Moira Fraser	
19.		Hackney Carriage Tariffs - 2025	To consider proposals for adjustments to the tariffs and the proposed consultation process.	Moira Fraser	
20.		Sex Establishments Policy	To review and if appropriate amend the policy and agree the consultation methodology.	Julia O' Brien	

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