

# West Berkshire Council Licensing Annual Report 2022/23

<b>Committee considering report:</b>	Licensing Committee
<b>Date of Committee:</b>	10 July 2023
<b>Portfolio Member:</b>	Councillor Lee Dillon
<b>Report Author:</b>	Julia O'Brien
<b>Forward Plan Ref:</b>	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
<b>Financial:</b>	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 <a href="#">November meeting</a> ) 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 <a href="#">January Licensing Committee</a> 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 <a href="#">Service Plan</a> which was agreed at the January 2023 JPPC meeting.</p>
<p><b>Human Resource:</b></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><b>Legal:</b></p>	<p>These are all statutory functions.</p> <p>Under <a href="#">the Licensing Act 2003</a> and the <a href="#">Gambling Act 2005</a> 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><b>Risk Management:</b></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>

<b>Property:</b>	None.			
<b>Policy:</b>	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.			
	<b>Positive</b>	<b>Neutral</b>	<b>Negative</b>	<b>Commentary</b>
<b>Equalities Impact:</b>				
<b>A</b> Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		✓		
<b>B</b> Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		✓		
<b>Environmental Impact:</b>		✓		
<b>Health Impact:</b>		✓		
<b>ICT Impact:</b>		✓		
<b>Digital Services Impact:</b>		✓		
<b>Council Strategy Priorities:</b>		✓		This report covers the business as usual work of the Licensing Committee, Licensing Sub-Committee and the Licensing functions provided by the PPP.

<b>Core Business:</b>		✓		This report covers the business as usual work of the Licensing Committee and the Licensing functions provided by the PPP.
<b>Data Impact:</b>		✓		All data reported is open data and any addresses detailed are in the public domain following hearings open to the public.
<b>Consultation and Engagement:</b>	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 a 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)	<b>Phil Barnett</b> (Chairman), Billy Drummond, Nick Carter, Nigel Foot, Owen Jeffery, Stephanie Steevenson, Louise Sturgess, Martha Vickers,
Conservative Group (3 Members)	<b>Paul Dick</b> (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 10<sup>th</sup> May 2022 (annual meeting), 04<sup>th</sup> July 2022, 07<sup>th</sup> November 2022 and 23<sup>rd</sup> 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 31<sup>st</sup> May 2023 and 15<sup>th</sup> 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

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### Background Papers:

None.

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**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

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