



LICENSING AND REGISTRATION COMMITTEE

DATE: Wednesday, 10 April 2019
TIME: 7.30 pm
VENUE: Council Chamber - Council Offices,
Thorpe Road, Weeley CO16 9AJ

MEMBERSHIP:

Councillor Cossens (Chairman)	Councillor J Henderson
Councillor Callender (Vice-Chairman)	Councillor Watson
Councillor Amos	Councillor White
Councillor B Brown	Councillor Whitmore
Councillor Davis	Councillor Winfield
Councillor V Guglielmi	

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Meeting papers can be provided, on request, in large print, in Braille, or on disc, tape, or in other languages.

For further details and general enquiries about this meeting, contact Debbie Bunce on 01255 686573.

DATE OF PUBLICATION: Monday 1 April 2019

AGENDA

1 Apologies for Absence and Substitutions

The Committee is asked to note any apologies for absence and substitutions received from Members.

2 Minutes of the Last Meeting (Pages 1 - 4)

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on 30 January 2019.

3 Declarations of Interest

Councillors are invited to declare any Disclosable Pecuniary Interests or Personal Interest, and the nature of it, in relation to any item on the agenda.

4 Questions on Notice pursuant to Council Procedure Rule 37

Subject to providing two working days' notice, a Member of the Committee may ask the Chairman of the Committee a question on any matter in relation to which the Council has powers or duties which affect the Tendring District **and** which falls within the terms of reference of the Committee.

5 Minutes of the Meeting of the Miscellaneous Licensing Sub-Committee held on 15 February 2019 (Pages 5 - 6)

The Committee is to receive and note, for information only, the above minutes.

6 Minutes of the Premises/Personal Licences Sub-Committee held on 1 February 2019 (Pages 7 - 12)

The Committee is to receive and note, for information only, the above minutes.

7 Report of Corporate Director (Operational Services) – A.1 - Licensing Act 2003 - Applications Approved under Delegated Powers (Pages 13 - 18)

Details of licences that have been approved under Delegated Powers during the period 22 October 2018 to 21 March 2019.

8 Report of Corporate Director (Operational Services) - A.2 - Proposed Revision of Licensing Enforcement Policy (Pages 19 - 36)

To request that the Committee approve in principle a revised draft Licensing Enforcement Policy, and to seek permission for the document to be circulated to key stakeholders for consultation purposes.

9 Report of Corporate Director (Operational Services) - A.3 - Child Sexual Exploitation (CSE) Training for Hackney Carriage and Private Hire Drivers and Operators (Pages 37 - 70)

To request that the Licensing and Registration Committee consider whether Child Sexual Exploitation (CSE) training become a mandatory condition on the Hackney Carriage and Private Hire driver and operator licence for existing and new drivers and operators; and if so agree that this proposal be subject to external consultation.

10 Exclusion of Press and Public

To pass the following resolution:-

“That under Schedule 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the item of business to be considered below on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act”.

11 Exempt Minutes of the Meeting of the Licensing Miscellaneous Licensing Sub-Committee held on 15 February 2019 (Pages 71 - 74)

The Committee is to receive and note, for information only, the above exempt minutes.

Information for Visitors

FIRE EVACUATION PROCEDURE

There is no alarm test scheduled for this meeting. In the event of an alarm sounding, please calmly make your way out of any of the fire exits in the hall and follow the exit signs out of the building.

Please heed the instructions given by any member of staff and they will assist you in leaving the building and direct you to the assembly point.

Please do not re-enter the building until you are advised it is safe to do so by the relevant member of staff.

Your calmness and assistance is greatly appreciated.

**MINUTES OF THE MEETING OF THE LICENSING AND REGISTRATION
COMMITTEE,
HELD ON WEDNESDAY, 30TH JANUARY, 2019 AT 7.30 PM
IN THE COUNCIL CHAMBER - WEELEY**

Present:	Councillors Cossens (Chairman), Callender (Vice-Chair), Amos, B Brown, Davis, White, Whitmore and Winfield
In Attendance:	Karen Townshend (Licensing Manager) and Debbie Bunce (Legal and Governance Administration Officer)

64. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from Councillors V Guglielmi, J Henderson and Watson.

65. MINUTES OF THE MEETINGS OF THE COMMITTEE HELD ON 18 JULY AND 7 NOVEMBER 2018

The minutes of the meetings of the Committee held on 18 July 2018 and 7 November 2018 were approved as correct records and signed by the Chairman.

66. MINUTES OF THE MEETING OF THE MISCELLANEOUS LICENSING SUB-COMMITTEE HELD ON 9 NOVEMBER 2018

The Committee received and noted, for information only, the minutes of the meeting of the Miscellaneous Licensing Sub-Committee held on 9 November 2018.

67. MINUTES OF THE MEETING OF THE MISCELLANEOUS LICENSING SUB-COMMITTEE HELD ON 26 NOVEMBER 2018

The Committee received and noted, for information only, the minutes of the meeting of the Miscellaneous Licensing Sub-Committee held on 26 November 2018.

68. MINUTES OF THE MEETING OF THE PREMISES/PERSONAL LICENCES SUB-COMMITTEE HELD ON 14 DECEMBER 2018

The Committee received and noted, for information only, the minutes of the meeting of the Premises/Personal Licences Sub-Committee held on 14 December 2018.

69. DECLARATIONS OF INTEREST

There were none.

70. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 37

There were none.

71. **A.1 REPORT OF CORPORATE DIRECTOR (OPERATIONAL SERVICES) LICENSING ACT 2003 - APPLICATIONS APPROVED UNDER DELEGATED POWERS**

The Committee noted the contents of a report (A.1) on the number of applications approved under delegated powers as at 7 January 2019.

72. **A.2 REPORT OF CORPORATE DIRECTOR (OPERATIONAL SERVICES) - HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE LICENSING - REDUCTION IN LICENCE FEE FOR ENVIRONMENTALLY FRIENDLY (LOWER EMISSION) VEHICLES**

The Committee recalled that, at its meeting held on 7 November 2018 (minute 63 referred), Members had considered a request as to whether it was appropriate to encourage greater use of environmentally friendly (lower emission) vehicles as Hackney Carriage and Private Hire Vehicles, by introducing a reduced licence fee for such vehicles.

After due consideration of the request, the Committee had decided to pass the following resolutions:-

- a) Members are asked to give their view as to whether they consider it appropriate to encourage greater use of environmentally friendly (lower emission) vehicles as Hackney Carriage and Private Hire Vehicles, by extending the life of the vehicle from 12 to 13 years on the condition that the vehicle is in good condition as inspected by the Council's Mechanics.
- b) If Members agree with (a) above, public consultation is undertaken over a 28 day period, and the results reported back to Members for definitive decision at the next scheduled meeting.

It was reported that no representations had been received as a result of the public notice having been placed in the local press.

Following questions by Members, it was thereupon moved by Councillor White, seconded by Councillor Amos and:-

RESOLVED that the resolution to extend the life of environmentally friendly (lower emission) Hackney Carriage and Private Hire Vehicles from 12 to 13 years on the condition that the vehicle is in good condition (as inspected by the Council's mechanics) be brought into operation with effect from 28 days following the decision of this Committee.

73. **EXCLUSION OF PRESS AND PUBLIC**

It was **RESOLVED** that, under Schedule 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of agenda items 11-12 on the grounds that they involved the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A, as amended, of the Act.

74. **EXEMPT MINUTES OF THE MEETING OF THE MISCELLANEOUS LICENSING SUB-COMMITTEE HELD ON 9 NOVEMBER 2018**

The Committee received and noted, for information only, the exempt minutes of the meeting of the Miscellaneous Licensing Sub-Committee held on 9 November 2018.

75. **EXEMPT MINUTES OF THE MISCELLANEOUS LICENSING SUB-COMMITTEE HELD ON 26 NOVEMBER 2018**

The Committee received and noted, for information only, the exempt minutes of the meeting of the Miscellaneous Licensing Sub-Committee held on 26 November 2018.

The meeting was declared closed at 7.45 pm

Chairman

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**MINUTES OF THE MEETING OF THE MISCELLANEOUS LICENSING SUB-COMMITTEE,
HELD ON FRIDAY, 15TH FEBRUARY, 2019 AT 10.00 AM
IN THE COUNCIL CHAMBER - COUNCIL OFFICES, THORPE ROAD, WEELEY**

Present:	Councillors V Guglielmi (Chairman), Cossens (Vice-Chairman), B Brown, Callender, Watson and Whitmore
In Attendance:	Karen Townshend (Licensing Manager), Linda Trembath (Senior Solicitor (Litigation and Governance & Deputy Monitoring Officer), Emma King (Licensing Officer) and Debbie Bunce (Legal and Governance Administration Officer)

23. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Sub-Committee held on 26 November 2018, were approved as a correct record and signed by the Chairman.

24. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were submitted from Councillors J Henderson and Winfield (with no substitutes).

25. DECLARATIONS OF INTEREST

There were none.

26. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 37

There were none.

27. REPORT OF THE CORPORATE DIRECTOR (OPERATIONAL SERVICES) - A.1 - HACKNEY CARRIAGE/PRIVATE HIRE LICENCES

The Sub-Committee noted the contents of a report (A.1) on the number of Hackney Carriage and Private Hire Drivers, vehicles and operators, licensed by the Council as at 18 January 2019, which was submitted for information only.

28. EXCLUSION OF PRESS AND PUBLIC

It was moved by Councillor Cossens, seconded by Councillor Callender, and:-

RESOLVED – That under Schedule 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the items of business to be considered below on the grounds that they involved the likely disclosure of exempt information as defined in paragraph 1 of Schedule 12A of the Act:

- (a) Exempt minute of the meeting of the Sub-Committee held on 26 November 2018.

(b) Report of Corporate Director (Operational Services)

B.1 Applications for the Renewal or Grant of Hackney Carriage/Private Hire Drivers' Licences.

29. EXEMPT MINUTE OF THE MEETING OF THE SUB-COMMITTEE HELD ON 26 NOVEMBER 2018

The Exempt Minutes of the meeting of the Miscellaneous Licensing Sub-Committee, held on 26 November 2018, were approved as a correct record and signed by the Chairman.

30. REPORT OF CORPORATE DIRECTOR (OPERATIONAL SERVICES) - B.1 - APPLICATIONS FOR THE RENEWAL OR GRANT OF HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS' LICENCES

The Sub-Committee reviewed named individual's applications for the review and grant of Hackney Carriage Driver's Licences. The Sub-Committee's resolutions are detailed in the exempt minutes of this meeting.

The meeting was declared closed at 10.45 am

Chairman

**MINUTES OF THE MEETING OF THE PREMISES / PERSONAL LICENCES SUB-COMMITTEE,
HELD ON FRIDAY, 1ST FEBRUARY, 2019 AT 10.00 AM
IN THE COUNCIL CHAMBER, WEELEY**

Present:	Councillors Callender (Chairman), Winfield and Davis
In Attendance:	Karen Townshend (Licensing Manager), Emma King (Licensing Officer), Linda Trembath (Senior Solicitor (Litigation and Governance) & Deputy Monitoring Officer) and Debbie Bunce (Legal and Governance Administration Officer)

26. CHAIRMAN FOR THE MEETING

It was moved by Councillor Winfield, seconded by Councillor Davis and

RESOLVED - That Councillor Callender be elected Chairman for the meeting.

27. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from Councillor Watson.

28. MINUTES OF THE LAST MEETING

The minutes of the meeting of the Premises/Personal Licences Sub-Committee held on 14 December 2018 were approved as a correct record and signed by Councillor Winfield who attended the meeting.

29. DECLARATIONS OF INTEREST

There were none.

30. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 37

There were none.

31. A.1 REPORT - REPORT OF THE CORPORATE DIRECTOR (OPERATIONAL SERVICES) - WINE BOUTIQUE FRINTON LTD, 14 OLD ROAD, FRINTON-ON-SEA, ESSEX

The Chairman (Councillor Callender) welcomed everyone to the meeting and made introductory remarks.

The Council's Licensing Manager (Karen Townshend) then gave a verbal summary of the written report and advised that the Sub-Committee had before it, for its consideration, as set out in Item A.1 of the Report of the Corporate Director (Operational Services), an application for the grant of a Premises Licence for Wine Boutique Frinton Limited, 14 Old Road, Frinton-on-Sea.

Section 2.2 of the written report set out the proposed opening hours for the premises which were:

Tuesdays to Saturdays 1100 hours to 2130 hours.

The Licensing Manager reported that the proposed licensable activities applied for by the applicant were before Members in Sections 3.1 to 3.4 of the written report.

The applicant had stated the steps that they proposed to take to promote the statutory Licensing Objectives within the Operating Schedule and those were detailed in Sections 4.1 to 4.5 inclusive.

Members were further informed that three letters of representations/objections had been received from residents in relation to this application.

It was reported that no Responsible Authorities had made representations on the application.

The Sub-Committee had before it for its information the relevant extracts from the Council's Statement of Licensing Policy in respect of planning considerations and the statutory 'Prevention of Public Nuisance' Licensing Objective.

Members also had before them for their assistance the relevant paragraphs from the Home Office's Section 182 Guidance that accompanied the Licensing Act 2003 in respect of the following –

- (1) Prevention of Public Nuisance;
- (2) Prevention of Crime and Disorder; and
- (3) Planning and Building Control.

The Members also had before them the Application Form and supporting documentation, a location plan and copies of the representation/objection letters.

The Chairman asked if anyone had any questions that they would like to ask the Licensing Manager following her summary of the written report. There were no such questions.

The Chairman stated that he wished to give an equal amount of time to both the applicant and the objectors to make their cases. He proposed 10 minutes for each side.

The Applicant's Business Partner, John Greenwold then gave representations to the Sub-Committee.

He stated that he had been a wine importer and wholesaler for a number of years and traded with a large number of wine bars and hotels. He said that High Street habits were changing as large town centres were becoming unattractive. The cost of running restaurants was increasing. This had changed the industry and he had had to look to change his business. The Wine Boutique came out of this. The model he was using was unique in that it was a wine shop with a licence for on-sales. His business based on this model had opened in Felixstowe a year ago and had become very popular. His business traded around the world with farms direct, wines were chosen very carefully

and they were then shipped over by themselves. At first he had thought it would be a niche market but it had now become mainstream.

He further stated that the Felixstowe premises closed at 9.00 p.m. which had proved to be a selling point. Food was not sold at that premises only snacks, that were put out in bowls for customers with the business disposing of the wrappers so there were no waste issues. This was a low overhead model and a successful small business.

Mr Greenwold informed the Sub-Committee that Sue Roberts, the Applicant had been working in the Felixstowe premises, but lived in Frinton. She would be the Manager of the new premises in Frinton.

Mr Greenwold continued by stating that customers were able to walk to the premises, and that there was a small catchment area.

On the issues of smokers, Mr Greenwold stated that there was a small cubby area at the side of the premises which would be designated as the smoking area. The other side of the premises would be a no smoking area.

The Chairman asked if any Members had any questions that they would like to ask Mr Greenwold.

The Chairman said that he was concerned about the till being near to the door in the premises for safety reasons and he was assured that the back door would remain closed during the day, but the till could be moved if needed.

Members asked how long it had taken for Mr Greenwold to realise that the Felixstowe store was working. Mr Greenwold stated that he had had a wine shop in Felixstowe for six years. He had then moved and upgraded to his current model and opened in 2017. He had had a first good Christmas and Christmas 2018 was also very good with good figures.

Members asked about staff being trained to spot underage drinkers and were told that anyone who appeared to be underage would be challenged.

Members asked whether the outside of the premises, in particular cigarette butts would be cleaned and swept up each day and were assured that this would happen.

Members asked about the background music in the shop and Sue Roberts stated that it would be very low background music, which once several people were on the premises talking would be very hard to hear and certainly would not be heard from outside.

The Chairman then asked the objector, Mr Harrington whether he had any questions for the Applicant to which he stated that he had none.

The Chairman invited Mr Harrington to present his representations to the Sub-Committee.

Mr Harrington stated that he felt that the premises were in the wrong place for the type of activity requested. He felt that the best place would be in Connaught Avenue.

He said that he was an insurance broker who had retired to Frinton-on-Sea. He felt that the premises were in the wrong place, in that there was a bus stop directly outside at which passengers queued outside numbers 12 and 14 Old Road. He stated that it could cause an accident, with someone getting pushed in the bus queue by the clientele of the Wine Shop. He stated that if the premises were in Connaught Avenue then they could have outside seating. This could not be done at the premises in Old Road. He was concerned that the smokers would not smoke in the designated area but would smoke in the road around the premises, adjacent to the bus queue.

The Chairman asked if any Members had any questions that they would like to ask Mr Harrington.

Members asked Mr Harrington whether, when the premises had been a hairdressers, there had been smoking outside the premises. Mr Harrington confirmed that there had been smoking and that he had constantly complained about it.

Mr Greenwold stated that he could make the smoking cubby-hole more attractive for the smokers and that he would enforce its use.

The Applicant, Mrs Roberts stated that in respect of Mr Harrington's comment about the bus queue outside the premises, buses only ran there on Mondays to Fridays until 4.00 p.m.

The Sub-Committee, the Council's Solicitor and the Legal and Governance Administration Officer then withdrew from the meeting in order for the Sub-Committee to consider the application and reach a decision.

After a period of time the Sub-Committee, the Council's Solicitor and the Legal and Governance Administration Officer then returned to meeting and the Council's Solicitor confirmed that she had not provided any specific legal advice to the Sub-Committee whilst it was making its decision.

The Chairman of the Sub-Committee then read out the following decision:

"Application No: 18/00693/PREMGR – Application for the Grant of a Premises Licence in respect of Wine Boutique, 14 Old Road, Frinton-on-Sea, Essex

1. The Sub-Committee has given careful consideration to this application. In reaching our decision, we have taken into account the views expressed by the Applicant, the representations received from residents along with the Guidance issued by the Secretary of State and other matters set out in the Licensing Authority's own Statement of Licensing Policy.
2. The decision of the Sub-Committee is to Grant this application in full.

Finally, I must mention that all parties who are aggrieved at the decision of the Sub-Committee have the right of appeal to the Magistrates' Court.

The Committee note that the applicants have confirmed that they will sweep up any cigarette butts or similar on a daily basis; and that the outside areas around the property are kept clean and free of rubbish.

This decision was made today, 1 February 2019 and will be confirmed in writing to all parties.”

The meeting was declared closed at 10.55 am

Chairman

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LICENSING AND REGISTRATION COMMITTEE

10 APRIL 2019

REPORT OF THE CORPORATE DIRECTOR [OPERATIONAL SERVICES]

A.1 LICENSING ACT 2003 - APPLICATIONS APPROVED UNDER DELEGATED POWERS

[Report prepared by Emma King]

(i) **Premises Licences/Club Premises Certificates**

Set out in Appendix A to this report are details of licences that have been approved under Delegated Powers during the period 22 October 2018 to 21 March 2019.

(ii) **Personal Licences**

A total of 2022 Personal Licences have been approved under Delegated Powers since 7 February 2005, the 'First Appointed Day'.

(iii) **Gambling Licences/Permits**

Below is a table showing the number of gambling licences and permits that are licensed with this Authority.

Type of Licence	Number of Licences as at (21 March 2019)
Adult Gaming Centres	26
Betting Premises	14
Bingo Premises	10
Family Entertainment Centres	4
Unlicensed Family Entertainment Centres	32
Prize Gaming Permits	2
Club Gaming & Club Machine Permits	26
Licensed Premises Gaming Machine Permits	18
Licensed Premises Machine Notifications	131
Small Society Lottery Permits	112

(iv) **Hackney Carriage/Private Hire Licence**

Below is a table showing the number of drivers, vehicles and operators that are licensed with this Authority.

Type of Licence	Number of Licences as at (21 March 2019)
Hackney Carriage Driver	313
Private Hire Driver	11
Hackney Carriage Vehicle	250
Private Hire Vehicle	28
Private Hire Operator	23

RECOMMENDED: That Members note the contents of this report.

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Uniform Ref No	Organisation	Address	Grant/Conversion/Conversion and Variation	Date Delegation Exercised
19/00092/PREMTR	Sailor Boy Cafe	Sailor Boy Cafe Beach Road St Osyth Clacton On Sea Essex CO16 8TB	Premises Licence Transfer	27/02/2019
19/00056/PREMGR	The 1912 Centre	Kings Quay Street Harwich Essex CO12 3ES	Premises Licence Grant	25/02/2019
19/00030/PREMGR	Fusilier Bar and Restaurant	Aingers Green Road Aingers Green Great Bentley Colchester Essex CO7 8NH	Premises Licence Grant	18/02/2019
19/00028/PREMVA	Estuary Wine Bar	17 High Street Manningtree Essex CO11 1AG	Premises Licence Variation	15/02/2019
18/00220/PREMTR	Prezzo	4 Marine Parade West Clacton-On-Sea Essex CO15 1QZ	Premises Licence Transfer	14/02/2019

19/00021/PREMTR	Dovercourt Haven Caravan Park	Dovercourt Haven Caravan Park Low Road Dovercourt Harwich Essex CO12 3TZ	Premises Licence Transfer	11/01/2019
19/00020/PREMTR	Plough Inn	Plough Road Great Bentley Colchester Essex CO7 8LA	Premises Licence Transfer	09/01/2019
18/00615/PREMGR	McDonald's Restaurant Limited	Teardrop Site Williamsburg Avenue Harwich Essex CO12 4GA	Premises Licence Grant	14/12/2018
18/00621/PREMGR	Great Bentley Cricket Club	The Pavilion The Green Great Bentley Colchester Essex CO7 8LY	Premises Licence Grant	12/12/2018
18/00631/PREMTR	Blackrock Restaurant Ltd - Previously Burger Base	Basement of Number 2 Marine Parade West Clacton On Sea Essex CO15 1RH	Premises Licence Transfer	14/11/2018

18/00566/PREMGR	Hamford View	Hamford View Vintage Tea Room and Activity Centre Clacton Road Little Oakley Harwich Essex CO12 5JJ	Premises Licence Grant	14/11/2018
18/00552/PREMGR	McDonald's - Brook Park West	Hartley Brook Road Brook Park West Clacton On Sea Essex CO16 9FZ	Premises Licence Grant	14/11/2018
18/00632/PREMTR	Quality Diner	47 Rosemary Road Clacton-on-Sea Essex CO15 1PB	Premises Licence Transfer	14/11/2018
18/00587/PREMVA	London Road Service Station	Miller Motor Group Ltd 2 - 10 London Road Clacton-on-Sea Essex CO15 3SN	Premises Licence Variation	14/11/2018
18/00632/PREMTR	Quality Diner	47 Rosemary Road Clacton-on-Sea Essex CO15 1PB	Premises Licence Transfer	14/11/2018

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Licensing and Registration Committee 10 April 2019

A.2 Proposed Revision of Licensing Enforcement Policy

Report prepared by Emma King

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To request that the Committee approve in principle a revised draft Licensing Enforcement Policy, and to seek permission for the document to be circulated to key stakeholders for consultation purposes.

EXECUTIVE SUMMARY

It is best practice that the Authority revises the policy on Enforcement processes from time to time to ensure that the most current information and guidance is made available to applicants taking into consideration the legislation and resources available.

RECOMMENDATION(S)

It is recommended that Members agree:

- a) That subject to any representations that members may wish to make, that the draft Enforcement Policy as set out in Appendix A to this report be approved in principle.
- b) That the draft Enforcement Policy be circulated to the Licensing Authority's key stakeholders for consultation purposes and that any representations received be considered at a future meeting of the committee.
- c) That if no representations are received, the Licensing Manager in consultation with the Chairman (or failing him the Vice-Chairman) of the Committee be authorised to forward the proposed Enforcement Policy to Full Council for consideration and adoption.

PART 2 – IMPLICATIONS OF THE DECISION

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

Whilst statutory regulations do not permit charging for functions relating to some enforcement, the revised regulations and implemented Policy would not adversely affect the budgets. The revised approach to enforcement action may outline further steps in a staged approach to dealing with matters in order to achieve compliance. Compliance is permitted to be afforded for within certain fees, for example in taxi licensing.

The implementation of a concise and staged approach to compliance and enforcement matters will enhance the role and assist informing Officers when engaged in any enforcement process. This will lead to more robust and defensible decisions in relation to action concerning breaches of the legislation, conditions and unlicensed traders. This may reduce the risk of costs should a decision be appealed. In adopting a compliance and enforcement policy, the courts will understand the rationale and reason behind Officers' actions.

<p>LEGAL</p> <p>Decisions in relation to a licence holder are likely to amount, amongst other things, to consideration of civil rights and obligations under the Human Rights Act 1998. This policy assists in ensuring that these rights are fully considered.</p> <p>A reasonable and proportionate policy will ensure that Officers consider and take action against infringements of legislation in a robust, consistent, transparent and proportionate manner which will assist in ensuring that they are defensible in a Court of Law.</p>
<p>OTHER IMPLICATIONS</p> <p>Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.</p> <p>CRIME AND DISORDER</p> <p>The adoption of a revised Enforcement Policy will enable Officers to demonstrate a robust, consistent, transparent and proportionate approach to Licensing enforcement issues.</p> <p>EQUALITY AND DIVERSITY</p> <p>Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to:</p> <ul style="list-style-type: none"> (i) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010, (ii) advance equality of opportunity between people from different groups, and (iii) foster good relations between people from different groups <p>The decisions recommended through this paper fall in line with the legislation and do not pose a risk to issues surrounding equality.</p> <p>The Council has had due regard with reference to the Human Rights Act 1998 in ensuring no right is compromised by the way in which the Council make enforcement decisions and that enforcement is considered with proportionately, balancing the public need with the need of the individual or organisation concerned. An Equality Impact Assessment has been completed by the Licensing Manager.</p> <p>AREA/WARDS AFFECTED</p> <p>All</p> <p>CONSULTATION</p> <p>It is important that the Licensing Authority engages with its stakeholders before a revised Enforcement Policy is adopted in order that all parties can have an opportunity to comment on the proposals.</p>

PART 3 – SUPPORTING INFORMATION

<p>BACKGROUND</p> <p>Tendring District Council as the Licensing Authority has responsibility for licensing and registering a range of functions in the interests of public safety and protection. As such, we have a moral and legal duty to uphold the requirements of various legislation in which we are governed.</p> <p>It is best practice to be transparent and concise in how we as the Licensing Authority achieve compliance and enforcement. It is important to revise our policy on our approach to compliance and enforcement matters to reflect change over time, changes in resources and to reflect changes in legislation in order to maintain public confidence, continue to</p>

achieve public safety and prevent offences being committed under the various Acts.

An Enforcement Policy enables clarity on the position of licence holders, what is expected of them, steps the Licensing Authority would expect them to take to rectify an issue and steps we make take to resolve an issue in relation to non-compliance and offences under various Acts.

The Policy will also act as guidance to members of the Miscellaneous Licensing Sub-Committee when making decisions on the status of a licence. The guidance will outline actions that are reasonable and proportionate to ensure decisions are fair, in the public interest and proportionate and that any decision taken will be defensible.

Compliance and enforcement is important to maintain integrity and confidence in the various licensing regimes, and to prevent anyone obtaining an unfair advantage through unlicensed activities and to ensure the security and safety of the public.

Some functions in which we have a duty to ensure requirements, regulations and various licensing objectives are upheld include:

- a) hackney carriage and private hire drivers and vehicles and private hire operators;
- b) alcohol, entertainment and late night refreshment;
- c) charity collections;
- d) sex establishments;
- e) gambling premises, permits and lottery registrations;
- f) scrap metal dealers and collectors.

This Licensing and Enforcement Policy seeks to cover all relevant licensing functions and all related topics.

The revised policy will replace the previous Licensing Enforcement Policy to ensure consistency and fairness in the way in which we regulate licensing functions.

CURRENT POSITION

The Authority's Licensing Enforcement Policy was last revised on 3 September 2009.

Consultation Proposals

When the first Enforcement Policy was put out for consultation, key stakeholders were asked for their views on the document. It is proposed that stakeholders from the Corporate Enforcement Strategy are consulted.

Timetable

In order to ensure that any revisions to the Enforcement Policy are in place, it is suggested that the following timetable be adopted.

10 April 2019	Licensing and Registration Committee authorise consultation process to commence.
TBC	Consultation Period.
TBC	If representations are received the Licensing and Registration Committee meet to consider these and formulate revised policy document for submission to Council.
TBC	If no representations are received, the Licensing Manager in consultation with the Chairman (or failing him the Vice-

Chairman) of the Committee be authorised to forward the proposed Licensing Enforcement Policy to Council for consideration and adoption.

BACKGROUND PAPERS FOR THE DECISION

None

APPENDICES

Appendix A - Draft Licensing Enforcement Policy

Tendring District Council



LICENSING ENFORCEMENT POLICY

Adopted by Full Council as Policy on ***** 2019

Review date ***** 2024

This Licensing Enforcement Policy replaces the existing Policy and will be the basis for all Licensing enforcement decisions taken by the Council over the next five years. It was adopted by Full Council on ***** 2019 and came into effect on ***** 2019. A review of the Policy will take place in ***** 2024.

Tendring District Council is situated in the County of Essex, which comprises twelve District and Borough Councils and two Unitary Authorities.

The District forms a rural peninsular bounded by the Stour Estuary to the North, the Colne Estuary to the South and the North Sea to the East. As at 2016 the population stood at an estimated 143,400 who live in well-established towns, the largest of which is Clacton on Sea; however many residents occupy the rural hinterland in the District's many thriving villages and hamlets.

Tendring is well known for having one of the longest coastlines and the sunniest, driest weather of any District in the county. Tourism thrives in the District with many former visitors choosing to settle here and with tourism being a main source of income for the District.

The District benefits from a good rail and road infrastructure and is within easy reach of London Stansted Airport. The District boasts no fewer than fourteen railway stations, with London Liverpool Street being just one hour away from the mainline station at Manningtree. There are also excellent links to the continent via Harwich International Port.

Authorisation of Officers

1. Authorisation of Officers is of paramount importance in the effective delivery of licensing functions in accordance with the Council's Constitution. The Officer having delegated responsibility to authorise Enforcement Officers is the Corporate Director.
2. All authorisations of Enforcement Officers are in writing, specifying the limits of authorisation. This forms part of the identification cards which can be shown during visits/inspections if necessary.

Decision Making, Consistency and Transparency

3. The Council recognises the importance of achieving and maintaining consistency in its approach to making all decisions that concern enforcement action, including prosecution. Consistency of approach means taking a similar approach in similar circumstances to achieve similar results; it does not necessarily mean uniformity. To achieve this, the guidance given in Codes of Practice, LGA support for regulatory services, Government guidance, circulars and other advisory documents will always be considered.
4. Enforcement Officers are faced with many variables; these include the severity of the risk/hazard, the attitude and competence of management of areas that are licensed and the licensee's/permit holder's compliance history. The Council has arrangements in place to promote consistency in the exercise of discretion, and these include liaison with other enforcing authorities.
5. Elected Members will decide in general policy terms what attitude the Council will take to serious breaches of the law relating to licensing matters. Having determined this policy, Members will not thereafter be involved in detailed consideration of individual cases other

than in exceptional circumstances or where a licence may be considered for suspension, revocation or refusal.

6. The decision to suspend, revoke or refuse a licence is made by the Licensing and Registration Committee or one of its Sub-Committees acting under delegated powers. The Committee or its Sub-Committees will also determine all other applications where there are relevant representations or where a licence is reviewed following representations, a conviction for failing to comply with licence conditions or convictions which bring into question their fitness to be licensed as Hackney Carriage/Private Hire Drivers/Operators.
7. The decision as to whether to prosecute is delegated to the Corporate Director after consultation with the Legal and Governance Department, with notice to the Chair of the Licensing and Registration Committee or failing that the Vice-Chair. That decision will be based on the legislation and statutory Codes of Practice along with the CPS Codes of Practice.
8. Certain types of formal enforcement action, excluding prosecution, are delegated to the Licensing Manager and Licensing Officer.
9. All regulatory activities by the Licensing Section will be conducted in a way that is transparent, accountable, proportionate and consistent. Activities will, so far as possible, be targeted only at cases in which action is needed.
10. The Council will expect relevant good practice to be followed.
11. The Licensing Section will base all enforcement decisions on:
 - The severity and scale of the actual or potential harm arising from an incident
 - The seriousness of any potential breach of the law
 - The effect of the legislative breach upon the potential persons affected
 - The future consequences of failing to address the breach at the present time
 - The track record of the licence holder or the business
 - With regard to the Corporate Enforcement Policy
 - The practicality of achieving results
 - The wider relevance of the incident including serious public concern
 - Any concurrent or potential action by other services and agencies and the suitability and effect of our action as opposed to combined with theirs in addressing the issues
12. The Licensing Section will have due regard to the advice given in statutory Codes of Practice, strategic plans and guidance including:
 - The Regulators' Code (Department for Business, Innovation and Skills, Better Regulation Delivery Office, Regulators' Code Apr 2014).
 - The Central and Local Government Concordat on Good Enforcement (Enforcement Concordat) where not superseded by the Regulators' Compliance Code)
 - Advice from Local Authorities Coordinators of Regulatory Services (LACORS)
 - Advice and guidance on licensing matters from the Home Office and the Department for Culture, Media and Sport (DCMS)
 - Advice from the Gambling Commission

and other relevant Government and professional bodies and to follow appropriate national strategies.

13. The Council will use discretion in deciding the level of response to incidents or complaints. In accordance with maintaining a proportionate response, most resources available for the investigation of incidents will be devoted to the more serious events.
14. In relation to Hackney Carriage/Private Hire Operators and Drivers, the Council operates a three stage warning system to deal with infringements of its licensing conditions. The system provides stepped enforcement for those licence holders who have contravened licence conditions or associated legal provisions and is administered by the Corporate Director. Where three warnings are issued to a driver over a six month period they are required to attend a meeting of the Council's Miscellaneous Licensing Sub-Committee. Having listened to all relevant parties the Sub-Committee will then determine what action, if any, should be taken which might include suspension or revocation of the relevant licence.
15. Transparency means helping licence/permit holders to understand what is expected of them and what they should expect from regulators. It also means making clear to licence/permit holders not only what they have to do but, where this is relevant, what they do not. Officers will always distinguish between statutory requirements and advice or guidance about what is desirable but not compulsory.
16. Transparency also involves Officers keeping all relevant parties informed as appropriate or as reasonable. These arrangements have regard to legal constraints, requirements and the procedural remit of this Authority.
17. Officers will explain what to expect when they call and what the complaint procedure is for matters received that require an investigation. In particular when Officers offer information or advice, face to face or in writing, including any warning, they will explain what has to be done to comply with the law and explain why. If asked, Officers will confirm any advice in writing and distinguish legal requirements from best practice advice.

Supporting Economic Progress

18. The Licensing Section will consider the impact of its interventions and ensure that the burden on 'regulated entities', i.e. businesses, is the minimum compatible with achieving the regulatory objective.

Risk Assessment

19. Legislation makes some duties specific and absolute. Others require action so far as is reasonably practicable. Deciding what is reasonably practicable to control risks involves the exercise of judgement. In the final analysis, it is the courts that determine what is reasonably practicable in a particular case. Where licensees/permit holders must control risks so far as reasonably practicable, the Council will, when considering protective measures taken by them, take account of the degree of risk on the one hand, and on the other the cost, whether in money, time or trouble, involved in the measures necessary to avert the risk. Unless it can be shown that there is a gross disproportion between these factors and that the risk is insignificant in relation to the cost, the licensee/permit holder must take measures and incur costs to reduce the risks.
20. The Licensing Section has a system for prioritising inspections according to the risks posed by a licensee/permit holder's operations, which takes account of the hazards and the nature and extent of the risks that arise. We will ensure that our efforts are targeted on businesses

where they are most needed and will apply a risk based approach across all licensing functions.

21. Enforcement powers are only employed as a means to an end. Action will generally follow a structured tier of alternatives unless urgent intervention is required.

Advice and Guidance

22. The Licensing Section will help and encourage businesses to understand and meet regulatory requirements more easily but this does not relieve regulated entities of their responsibility to comply with their obligations under the law.
23. The Licensing Section is committed to providing general advice for businesses and individuals in an effort to bring about improved standards and places great emphasis on providing clear guidance, information and advice so as to encourage compliance with the legislation. The Council's web site is employed extensively to disseminate up to date information.

Inspections

24. It is neither possible nor necessary for the Council to investigate all issues of non-compliance with the law that are uncovered in the course of planned inspections or reported events.
25. The Licensing Section will ensure that regulatory effort is focussed on those businesses where non-compliance is likely and impact is high.
26. Joint working with other agencies including the Police, Fire and Rescue Service, Security Industry Authority (SIA), Trading Standards and Driver and Vehicle Standards Agency (DVSA) is already in place.
27. Whenever an enforcement decision needs to be made, fair regard shall be given to the normal hours of trading of any business under investigation. When necessary, inspections and investigations will be carried out in the early morning, in the evening and at weekends, in order to obtain fair and representative evidence pertaining to the alleged breach(es).
28. Prior notification of an impending enforcement inspection will not be made when notification would defeat the purpose for which the inspection was being undertaken.
29. In conducting investigations the Council will take account of any likely complimentary or shared enforcement roles, e.g. vehicle inspections with DVSA. We will also refer relevant information to other Regulators where there is a wider regulatory interest.
30. Various surveillance platforms may be used, including the internet and social media, as a general observation duty with regard to legislative functions and this may include publicly accessible areas of the internet and social media.

Information Requirements

31. Information requirements on businesses will be weighed against the costs and benefits of providing it and the Licensing Section will seek to share this data to avoid duplication.

Compliance and Enforcement Actions

32. Action will be taken where appropriate but there will be discussion with the business first, unless immediate action is warranted or delay would defeat the object of the enforcement action.

Accountability

33. The Licensing Section has put in place consultation opportunities for businesses to provide feedback including the use of NI 182, which measures the business satisfaction with regulatory services. The Council also provides an corporate complaints procedure.

Informal Action

34. Informal action will be appropriate in the following circumstances:
- The consequence of non-compliance will not pose a significant risk to members of the public who may visit the premises or use a licensed vehicle
 - The act or omission is not serious enough to warrant formal action
 - From the past history of the individual, enterprise or licence/permit holder it can be reasonably expected that informal action will achieve compliance, and
 - Confidence in the individual or licence/permit holder, or in the management of the enterprise, is high
35. Even where some of the above criteria are not met there may be circumstances in which informal action will be more effective than the formal approach. This may apply to businesses and enterprises associated with voluntary organisations using volunteers where no one is employed to work.
36. When informal action is taken to secure compliance, Officers will ensure written documentation is provided that:
- Contains all the information necessary to understand what action is required, why it is necessary and the timescale for compliance
 - Offers the opportunity for discussion or for the individual or proprietor to make representations, including contact points and names
 - Indicates the statute or regulation contravened, measures which will enable compliance with the legal requirements and that other means of achieving the same effect may be chosen
 - Provides the details of any other Council services or outside Agencies that may be able to provide assistance or related services
 - Clearly indicates that any recommendations of good practice are not legal requirements

Statutory and Other Notices issued under Licensing Legislation

37. Only Officers who are duly authorised by the Corporate Director or the Head of Governance and Legal Services and Council's Monitoring Officer, may issue (i.e. sign) Statutory Notices.
38. Authorised Officers must have personally witnessed the matter or issue concerned, be satisfied that it is significant and that any other appropriate criteria are met before issuing or requesting any Notice. The Corporate Director may issue certain Statutory Notices on the

recommendation of Authorised Officers where the latter are not personally authorised to do so.

39. Unless specified in legislation, Authorised Officers shall endeavour to obtain the agreement of the licence/permit holder regarding the placing of time limits on Notices, having taken due account of the risk. Authorised Officers will always discuss the works or other matters required with the licence/permit holder, if possible resolve points of difference and fully consider alternative solutions.
40. When issuing a Statutory Notice the Authorised Officer will provide information about the right of appeal.
41. Failure to comply with a Statutory Notice will generally result in legal proceedings and/or work in default where appropriate and permitted.

Formal Warning

42. The following conditions will be met before a Formal Warning is administered:
 - There must be evidence of the suspected offender's guilt sufficient enough to give a realistic prospect of conviction, and
 - The suspected offender must admit the offence either verbally or in writing (there must be a record). A Formal Warning will not be appropriate where a person has not made a clear and reliable admission of the offence (for example where intent is denied or there are doubts about the person's mental health or intellectual capacity or where it is likely that the person could avail themselves of the provisions of a statutory defence), and
 - It is in the public interest to use a Formal Warning as the appropriate means of disposal, and
 - The suspected offender must understand the significance of a Formal Warning and give consent to being cautioned
43. The significance of a formal warning is that a note to the effect that a Formal Warning was administered will be placed on the relevant documents held as part of the Council's records and held for as long as the warning and incident is relevant.
44. If all the above requirements are met, the Officer will always consider whether the offence makes it appropriate for disposal by a Formal Warning but where a suspect is under 18, a Formal Warning will not be given.
45. Where a person declines the offer of a Formal Warning, the suspect will be advised that the Council has the discretion to proceed with the matter by way of legal proceedings.
46. Simple Cautions may be appropriate for individuals and corporate bodies. They will be used only in accordance with the relevant Government guidance.
47. When considering the disposal of a matter by way of Formal Warning the Council will have regard to any aggravating or mitigating factors involved in the commission of the offence and determine which factors may be most appropriate in the local circumstances.
48. The views of the victim, if any, will be taken into account and the proposal to offer a Formal Warning explained; though the fact that a victim declines to support a prosecution will not preclude the consideration of a Simple Caution. The final decision is at the discretion of the Council. The victim will be kept informed of the final outcome.

49. The Suspect's criminal record will be checked to avoid inappropriate use of a Simple Caution. In particular, the Home, Lead or Originating Authority will be contacted for this purpose. If the suspect has previously received a Caution, then a further Formal Warning will not normally be considered unless the matter is trivial or unrelated.
50. The Formal Warning may be administered by post or in person. The suspect will be given adequate time to decide whether to accept, including the opportunity to seek independent legal advice.

Prosecution and/or Default Action

51. Where circumstances have been identified which may warrant a prosecution, all evidence and information will be considered to enable a consistent, proportionate and objective decision to be made.
52. A decision to prosecute is delegated to the Corporate Director after consultation with the Legal and Governance Department, with notice to the Chairperson or in their absence the Vice-Chairperson of the Licensing and Registration Committee; the decision being based on the legislation and statutory Codes of Practice and the CPS Code for Prosecutors, in any of the following circumstances and at the earliest opportunity:
 - Where the alleged offence involves a reckless disregard of the law such that safety or well-being of the public is being put at risk
 - Where death was a result of breach of the legislation
 - Where the gravity of the alleged offence, taken together with the seriousness of any actual or, or the general record and approach of the offender, warrants it
 - The alleged offence involves a failure by the suspected offender to correct an identified serious potential risk having been given a reasonable opportunity to comply with the lawful requirements of an Authorised Officer
 - A Formal Warning has been offered but rejected
 - The alleged offence involves the failure to comply in full or in part with the requirements of a Statutory Notice
 - There is a history of similar offences of persistent poor compliance
 - There has been a failure to comply with a written informal warning
 - Authorised Officers have been intentionally obstructed or assaulted in the lawful course and pursuit of their duties. This includes refusing to provide name and address when requested by an Authorised Officer.
53. The Corporate Director after consultation with the Legal and Governance Department, will also consider prosecution where, following an investigation or other regulatory contact, the following circumstances apply:
 - False information has been wilfully supplied or there has been intent to deceive
 - There have been serious failures by the management of the business or organisation
 - It is appropriate in the circumstances as a way to draw general attention to the need for compliance with the law and the maintenance of standards required by law and conviction may deter others from similar failures to comply with the law.
54. When considering the decision to prosecute, Officers will also have regard to relevant Codes of Practice and guidance from the appropriate national regulators and consider the following factors:

- a) The seriousness of the alleged offence e.g.
 - Harm or the risk of harm to the public
 - Failure to comply with a Statutory Notice served for a significant breach of legislation
 - Deliberate disregard for financial reward
 - b) The previous history of the party concerned, including:
 - Offences following a history of similar offences
 - Failure to respond positively to past warnings
 - Failure to comply with Statutory Notices
 - c) The competence of any important witnesses and their willingness to co-operate
 - d) The willingness of the party to prevent a recurrence of the problem
 - e) The probable public benefit of a prosecution and the importance of the case, e.g. whether it might establish legal precedent or address a high incidence of similar offences in the area. Advice on the public interest test is contained in the Code for Crown Prosecutors. The general advice is that the more grave the offence, the more likely that it will be in the public interest for prosecution to be pursued.
 - f) Whether any other action, such as issuing a Formal Warning or a Notice or imposing Prohibition, would be more appropriate or effective. It is possible in exceptional circumstances to prosecute as well as issue a notice and failure to comply with a notice would be an additional offence
 - g) Any explanation offered by the company or the suspected offender. Suspected offenders will always be given the opportunity to offer an explanation before prosecution decisions are taken
 - h) Where applicable, the likelihood of the defendant being able to establish a 'due diligence' or 'best practicable means' defence. Where appropriate, reference will be made to case law and guidance issued to regulatory bodies.
55. Before a prosecution proceeds the Corporate Director, in consultation with the Authority's Legal and Governance Department; will ensure that they are satisfied that there is relevant, admissible, substantial and reliable evidence that an offence has been committed by an identifiable person or company. The Legal and Governance Department and Corporate Director must deem there to be a realistic prospect of conviction, a bare prima facie case will not be sufficient.
56. Additionally, the Council will actively consider the management chain and the role played by individual Directors and Managers of areas licensed by this Authority. Where appropriate, the Council will seek disqualification of Directors under the Company Directors Disqualification Act 1986.
57. Where circumstances warrant it, and the evidence to support a case is available, the Council will prosecute without prior warning or recourse to alternative sanctions.

Licensed Premises

58. Licensing Act 2003 (the Act): The Licensing Authority is required to promote the following four (4) objectives in relation to premises and people under the Act:
- The prevention of crime and disorder
 - Public safety

- The prevention of public nuisance
 - The protection of children from harm
59. Tendring District Council, acting as the Licensing Authority, recognises the interest of both citizens and businesses and will work closely, along with partners, to assist licence holders to comply with the law and the four licensing objectives that it seeks to promote. However, proportionate but firm action will be taken against those who commit serious offences or consistently break the law.
60. The Tendring District Corporate Enforcement Strategy formalises the working agreement between the Licensing Authority, Essex Police, Essex Fire and Rescue Service, Essex County Council Trading Standards, North East Essex Clinical Commissioning Group and Essex County Council Children’s Safeguarding Service in respect of licensing compliance. This includes for example the nomination of liaison officers, disclosure agreements, provision of advice, complaint investigation, review of licences etc.
61. The Enforcement Strategy sets out the roles and responsibilities of the various enforcement agencies. It promotes the targeting of agreed problem and high risk premises which require greater attention, while providing a lighter touch in respect of low risk premises which are well run.
62. Gambling Licensing: The Corporate Director or Head of Governance and Legal Services (and Council’s Monitoring Officer) or Senior Solicitor (Litigation and Governance), is the appropriate person to initiate any enforcement action to be taken under the Gambling Act 2005 with regard to Premises Licences and Gaming/Gaming Machine Permits. Any other enforcement action is the responsibility of The Gambling Commission.

Referral to Another Agency

63. Where any matter is found to fall more appropriately under the enforcement regime of another regulatory body or agency, then the case will be referred to that agency by the Council. In all cases of referred enforcement, the person(s) under investigation will be notified (if appropriate and not prejudicial to any enforcement action) in writing by the Council stating the reasons for referral.

Revisits to Premises

64. Following service of a Statutory Notice or a written informal warning and/or advice, Officers will revisit the premises, to check that compliance has been achieved. For very minor contraventions, Officers may advise that a check will be carried out at the next routine inspection. The decision on whether a follow-up visit is necessary will be based upon the seriousness of the non-compliance and the likelihood that further formal action will be taken as a direct result of the visit. Where practicable, the Officer who undertook the original visit or inspection will carry out the re-visit if there are any significant breaches of legislation.

Enforcement at Premises in which the Council has an interest

65. The Council will not take action against itself and where such action may prove necessary the matter will be passed to the Corporate Director, for referral to the appropriate national enforcement authority.

66. Where Council owned premises are operated by a contractor or other occupier then the Council shall retain responsibility for enforcement. Under these circumstances the Council will apply its enforcement policy and procedures in exactly the same way as it does in all other premises at which it has the enforcement responsibility.

Police and Criminal Evidence Act 1984 – PACE interviews

67. Questioning of licence/permit holders and other persons will be carried out as a formal interview where there is suspected involvement in criminal offences. All interviews shall be conducted with regard to the above Act and associated Codes of Practice.

Human Rights Act 1998

68. Regard shall be had to the Human Rights Act 1998 when applying this Policy.

Equality and Diversity and the Equality Act 2010

69. Full regard will be taken of the Council's Equality and Diversity policies when applying the Licensing Enforcement Policy and in considering any matter or making any decision the Council will have due regard to the Equality Act 2010 including the public sector equality duty (PSED) at section 149 of the Equality Act 2010.

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Name and brief description of proposal / policy / service being assessed

The Licensing Enforcement Policy sets out the principles and guidance that this Licensing Authority will adhere to when carrying out any enforcement action. The Licensing Enforcement Policy will be presented to the Licensing and Registration Committee on 10 Apr 19 for initial agreement and subsequent public consultation. At the conclusion of the public consultation period, the Policy will again be presented to the Licensing and Registration Committee for approval to be adopted by Full Council.

Information used to analyse the effects on equality

The Licensing Enforcement Policy will be subject to a 28 day public consultation period and shall be sent to relevant stake holders and responsible authorities for comment. Should any issues be raised from the public consultation period that are relevant, then these will be added to this document.

	Could particularly benefit (X)	May adversely impact (X)	Reasons	Is action possible? (to reduce negative or increase positive impact)	Details of actions planned or why action not possible
People from different ethnic groups	<input type="checkbox"/>	<input type="checkbox"/>		N	Enforcement action will be determined against a premises/licence holder due to a breach of licence conditions. This will be regardless of any of these factors.
Men, women (including maternity/pregnancy impact), transgender people	<input type="checkbox"/>	<input type="checkbox"/>		N	
Disabled people or carers	<input type="checkbox"/>	<input type="checkbox"/>		N	
People from different faith groups	<input type="checkbox"/>	<input type="checkbox"/>		N	
Lesbian, gay or bisexual people	<input type="checkbox"/>	<input type="checkbox"/>		N	
Older or younger people	<input type="checkbox"/>	<input type="checkbox"/>		N	
Other (e.g. marriage/civil partnership, looked after children, cohesion)	<input type="checkbox"/>	<input type="checkbox"/>		N	

Outcome(s) of equality impact assessment:

No major change needed Adjust the policy Adverse impact but continue Stop and remove the policy/proposal

Arrangements for future monitoring of equality impact of this proposal / policy / service:

To be assessed at the conclusion of the public consultation period.

Approved by (manager signature): *K N TOWNSHEND* (signed on original) 09 January 2019

Date sent to equality team for publishing:

A.3 Child Sexual Exploitation (CSE) Training for Hackney Carriage and Private Hire Drivers and Operators

(Report prepared by Karen Townshend)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT
To request that the Licensing and Registration Committee consider whether Child Sexual Exploitation (CSE) training become a mandatory condition on the Hackney Carriage and Private Hire driver and operator licence for existing and new drivers and operators; and if so agree that this proposal be subject to external consultation.

EXECUTIVE SUMMARY
The Licensing and Registration Committee is asked to consider and determine a request from the Licensing Manager for the Council to consider CSE training for Hackney Carriage and Private Hire drivers in an aim to improve awareness of the crucial and privileged role that drivers play in the safety of this community. This proposal has received the support of Essex Police and the Community Safety Partnership.

RECOMMENDATION(S)
<p>(a) It is recommended that: the Committee agrees in principle, to the requirement of Hackney Carriage and Private Hire drivers and operators to complete CSE training, as a mandatory condition on the Hackney Carriage and Private Hire driver and operator licence for existing and new drivers and operators.</p> <p>(b) Subject to (a), authority is delegated to the Licensing Manager to undertake external consultation over a 28 day period, and report the results to the Committee for a final decision at the next scheduled meeting.</p>

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES
The delivery of CSE training for drivers will ultimately improve awareness of the signs and dangers associated with CSE and linked activities, such as County Lines operations, the prevention of modern day slavery and human trafficking, and the important role and unique position that drivers hold. It will provide them with the confidence about what their actions should be and as to where and when they should report any information. This will greatly contribute to the improvement of community safety and the safe guarding of vulnerable children and people; it is important that this authority is seen to be taking proactive action against such abhorrent crime.

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

Should a decision be made for this proposal to become a mandatory condition then from the date of adoption, all new drivers will undertake this training as part of the application process. Existing drivers will need to complete and pass the training in order to update their current licence.

The purchase price of the online training package from Barnardo's is £7320 plus VAT, which entitles this authority to run the programme and provides 2000 licences (course and certificate of pass and completion). At present this authority has 326 licensed drivers and 24 operators.

Funding will be sought from the Responsible Authorities Group (RAG) in order to cover costs of £5000. The outstanding finance would be requested through the Licensing budget for 2019/20; alternatively extra funding could be sought from the Police, Fire and Crime Commissioner's (PFCC) budget that is allocated for community safety initiatives.

Any proposed mandatory condition would need to be advertised under statutory procedures, the cost of which can be met from within the Hackney Carriage revenue budget for 2019/2020.

Risk

A disadvantage to introducing mandatory CSE training to Hackney Carriage and Private Hire driver and operators would be a resistance to complete the training. There is also the possibility of suspensions and revocations for drivers and operators if they do not complete the training once it is made a mandatory condition, resulting in a possible loss of service and an increase in Officer time and administration.

LEGAL

The District Council, acting as the Licensing Authority, may attach to the grant of Hackney Carriage and Private Hire Drivers and Operators licence, such conditions as they may consider reasonably necessary pursuant to the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976.

The Committee has a responsibility to ensure that their policies and procedures are robust to ensure that only fit and proper persons hold a taxi licence. It is open to the Committee to update the Council's policies and procedures to require licensed drivers and operators to undertake safeguarding training. It is regarded as good practice to undertake consultation prior to the Committee amending or revising its licensing policies.

In 2017, the Government used its powers under section 177 of the Policing and Crime Act 2017 to issue statutory guidance on the protection of children and vulnerable adults with regards to taxi and private hire vehicle services.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder / Equality and Diversity / Consultation/Public Engagement.

CRIME AND DISORDER

Promoting awareness of CSE, its signs and dangers, and the risks it poses to young or vulnerable persons will, as a minimum, support community safety initiatives and

encourage the safeguarding of such persons and may lead to the prevention or reduction of some criminal offending.

EQUALITY AND DIVERSITY

Under the Equality Act 2010 (the Act) a public authority is required to have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act under which “age” is a protected characteristic. Adoption of such training should assist in reducing the victimisation of young or vulnerable persons.

AREA/WARDS AFFECTED

All wards

CONSULTATION

The initial external consultation for the proposed CSE training will be advertised in the local press for the statutory 28 days and existing licence holders will be consulted with to gain their perspective on the proposal along with key stakeholders.

PART 3 – SUPPORTING INFORMATION

BACKGROUND

In recent years the public have been alerted to the growing frequency and numbers falling victim to the crime of child sexual exploitation, and indeed exploitation of vulnerable people; along with the growing operation of County Lines – the sale and supply of illegal drugs frequently using children or other vulnerable persons. It is a well-documented fact that these vulnerable children and people are often transported to and from various venues across the country in taxis. The payments are usually made by adults either upon booking, collection or drop off. More often than not the child or vulnerable person does not know where they are going to or for what purpose/what the situation may be.

Hackney Carriage and Private Hire drivers are in the unique position of potentially and unwittingly transporting this group of people. All drivers have a duty of care to their passengers and they are therefore in a unique position to be ‘the eyes and ears’ in a bid to prevent and disrupt these crimes from happening or to at least minimise them, and be able to pass intelligence to the relevant authorities. Ultimately, the safety of the driver and the passenger is the main concern of this authority; so it is important that drivers know the signs to look for and how to take appropriate action in passing information to the police and authorities.

This proposal is a joint collaboration with the Community Safety Partnership (CSP), as the topic areas covers aspects of both departments. The CSP would utilise the training programme and available licences in order to address the training needs of around 200 TDC front line staff.

The training programme that is available from Barnardo’s is an online package which may be accessed 24/7, allowing the greatest flexibility available for drivers and operators to complete the training around their work commitments. Front line staff would also be able to complete at a time that is suitable in their work schedule. Should those required to complete the course not have access to the internet, then the training may be done within TDC offices on the Licensing laptop and iPad.

The Committee may now wish to consider whether it is reasonable to introduce CSE training as a mandatory condition to the Hackney Carriage and Private Hire driver and

operator licence. Should the Committee be minded to introduce this motion, Officers consider that it would be reasonable to introduce this as a mandatory condition with a reasonable time frame allowed for the completion of all existing drivers to complete the training.

CURRENT POSITION

No training of this nature currently exists within this authority, whilst other authorities have successfully introduced such training as part of their conditions. A total of 18 local authorities are currently using the CSE online training programme that is provided by Barnardo's. Local authorities providing CSE training presently include Rochford, Castle Point, Brentwood and Thurrock.

A recent Task and Finish Group (TFG) on Taxi and Private Hire Vehicle Licensing was established in Sep 2017 and was chaired by Professor Mohammed Abdul-Haq. Prof Abdul-Haq concluded the TFG by submitting a report to the Secretary of State for Transport on 09 Jul 18. The three key measures that have been recommended are:

- National minimum standards
- National enforcement powers
- A national licensing database

The TFG recommendation number 25 states, "Licensing authorities must use their existing powers to require all drivers to undertake safeguarding/child sexual abuse and exploitation awareness training including the positive role that taxi/PHV drivers can play in spotting and reporting signs of abuse and neglect of vulnerable passengers. This requirement must form part of future national minimum standards."

The Government response to recommendation 25 is as follows:

The Government welcomes this recommendation and the acknowledgement that such a requirement can be universally applied under powers already available to licensing authorities. The draft statutory guidance which has been issued for consultation alongside this response includes a recommendation that licensees should be required to undertake safeguarding/child sexual abuse and exploitation awareness training. In the longer term, the Government intends that this requirement would be included in national minimum standards.

Other recommendations contained within the report are already conducted within this authority, i.e. the requirement for drivers to have completed a disability awareness course.

It is the view of the Licensing Section and Community Safety Partnership that this training should be included as a mandatory condition before this becomes a national minimum standard.

BACKGROUND PAPERS FOR THE DECISION

None

APPENDICES

Barnardo's CSE training demonstration (to be shown live at Licensing and Registration Committee)

Government response to Task and Finish Group (TFG) on Taxi and Private Hire Vehicle Licensing



Department
for Transport

Government Response

Report of the Task and Finish Group on Taxi and Private Hire Vehicle Licensing

Moving Britain Ahead



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Foreword

I would like to thank the Chair and Members of the Task and Finish Group on Taxi and Private Hire Vehicle Licensing for their time and for sharing their knowledge and expertise. I share the group's desire to act where needed. Many of the recommendations in the Chair's report seek to ensure the safety of passengers in taxis and private hire vehicles wherever they may be travelling, and the report is clear on the role that government and licensing authorities must play to achieve this.

My Department has considered the recommendations made by the Chair and the comments of the members; it is clear where there is a consensus and where the arguments are more finely balanced. In this response I will set out the action Government will take. At the forefront of our deliberations are the interests of passengers, both in the short-term and going forward to provide a framework that works now and for the future as the sector faces further change.

The existing licensing framework provides licensing authorities with extensive powers to set appropriate standards for drivers, vehicles and private hire operators. As the Chair has identified, licensing authorities can bring about much of the needed reform through the use of these powers and we support the call for far greater collaboration between licensing authorities in the interests of both passengers and the trade.

Together, Government and licensing authorities can learn from past failings and regulatory and industry best practice, to provide a framework that fosters fair competition, high standards and a service for all that those working in the trade can be rightly proud of.



Nusrat Ghani MP

Parliamentary Under Secretary of State for Transport

Background

The Task and Finish Group

- 1 The Task and Finish Group (TFG) on Taxi and Private Hire Vehicle Licensing was established in September 2017. The group's remit was to consider evidence relating to the adequacy of current taxi and private hire vehicle (PHV) licensing authority powers, as set out in legislation and guidance, and to make recommendations for actions to address any priority issues identified; specifically:
 - Identifying the current priority concerns regarding the regulation of the sector, based on evidence of impact and scale across England;
 - Considering, in particular, the adequacy of measures in the licensing system to address those issues;
 - Considering whether it would advise the Government to accept the recommendations made in the Law Commission's May 2014 report on taxi and PHV legislative reform relevant to the issues, and;
 - Making specific and prioritised recommendations, legislative and non-legislative, for action to address identified and evidenced issues.
- 2 The Chair of the group, Professor Mohammed Abdel-Haq, submitted his report (the 'TFG report'), with individual annexes contributed by group members, to the Secretary of State for Transport on 9 July 2018.

The format of this response

- 3 This response first sets out a broad summary of the Government's position, and the actions it proposes to take.
- 4 This is followed, in chapters two to five, by a point-by-point consideration of the report's 34 specific recommendations. The chapter headings mirror the named sections of the TFG report.

1. Summary

The report of the Chair of the independent Task and Finish Group sets out a road-map for reform of the regulation of the taxi and private hire vehicle (PHV) sector. His report highlights the leadership role that government must provide and the extensive powers that licensing authorities currently have to shape the sector and the benefits of increased collaboration between them. Above all other considerations the Task and Finish Group has put the passenger at the heart of its thinking; we welcome and share this view. Government will take action where needed to ensure a safe and well-functioning sector which meets the needs and expectations of its passengers.

Greater collaboration is essential to delivering safe and convenient travel for all; unlike other forms of licensing the people and premises (in this case the drivers and vehicles) are mobile and will frequently be asked to work beyond the area in which they are licensed - while regulation is undertaken at a local level, journeys the public wish to take are not bound by borders. Greater consistency and collaboration in regulation is needed to address the changes in the sector and the concerns of the public, the trade and of regulators themselves.

The primary concern of the group was considering ways in which the safety of passengers can be protected. The Chair, with the full support of the group's members, has made a number of recommendations on robust measures he feels are appropriate and how government should ensure these are consistently applied and enforced. The Government accepts the three key measures recommended to achieve a safe service for passengers:

- National Minimum Standards
- National Enforcement Powers; and
- A National Licensing Database.

In addition, Government will consider further, with a view to legislation, the Chair's recommendation around tackling cross-border working, including how it might work in detail.

Government has already made commitments as part of its Inclusive Transport Strategy to work with licensing authorities to increase the availability of wheelchair accessible vehicles where demand is unmet; to prevent the refusal of wheelchair users and those travelling with assistance dogs; and to take strong action if such offences occur.

As with other parts of the economy, the PHV trade has experienced growth in numbers and changes to the way those within it work. The Good Work Plan, published in December 2018, sets out the Government's vision for the future of the labour market and its ambitious plans for implementing the recommendations arising from the Taylor Review.

2. Market function and regulation

TFG Recommendation 1

Notwithstanding the specific recommendations made below, taxi and PHV legislation should be urgently revised to provide a safe, clear and up to date structure that can effectively regulate the two-tier trade as it is now.

Government response

- 2.1 We agree that the regulation of taxis and private hire vehicles needs reform. Government acknowledged that need in 2012 by asking the Law Commission to review the regulation of the sector and propose an updated legislative framework. The Commission published a report and draft Bill in May 2014.
- 2.2 Since the Law Commission's report was published in 2014, the sector has undergone rapid change and continues to do so. Increased use of technology by passengers and the trade has resulted in a significantly different licensing landscape from that which existed when the Commission undertook its review. The TFG report makes a number of specific recommendations which conflict with the approach that the Law Commission took - for example, concerning cross-border journey restrictions - and it does not address in detail many of the fundamental questions about how an entirely new legislative framework might look.
- 2.3 We will set out in this response what legislation the Government proposes to take forward. In the short term this does not include a full replacement of the law which regulates taxi and private hire. It will, however, be important to fully consider this as part of work on the Future of Mobility¹, which will consider how Government can support new technology and innovation through regulatory frameworks which can evolve with time.

¹ <https://www.gov.uk/government/publications/industrial-strategy-the-grand-challenges/industrial-strategy-the-grand-challenges#future-of-mobility>

TFG Recommendation 2

Government should legislate for national minimum standards for taxi and PHV licensing - for drivers, vehicles and operators (see recommendation 6). The national minimum standards that relate to the personal safety of passengers must be set at a level to ensure a high minimum safety standard across every authority in England.

Government must convene a panel of regulators, passenger safety groups and operator representatives to determine the national minimum safety standards. Licensing authorities should, however, be able to set additional higher standards in safety and all other aspects depending on the requirements of the local areas if they wish to do so.

Government response

- 2.4 The Government agrees that there should be national minimum standards for taxi and PHV licensing, and will take forward legislation when time allows to enable these.
- 2.5 There is a welcome consensus in favour of the principle of national minimum standards, though careful consideration will be needed to define the scope of those standards and what they should be. In particular, it will be important to carefully balance the need to create more harmonised licensing practice, particularly where safety is concerned, with the important right of local licensing authorities to set conditions appropriate for their areas.
- 2.6 In the interim, Government will continue to review its statutory and best practice guidance. The development of these, through engagement and consultation, will ultimately shape the content of national minimum standards.
- 2.7 At Autumn Budget 2018, the Government announced that it will consider legislating at Finance Bill 2019-20 to introduce a tax-registration check linked to the licence renewal processes. This would include drivers of taxis and PHVs and PHV operators licensing in England and Wales. Applicants would need to provide proof they are correctly registered for tax in order to be granted these licences. This would help to raise regulatory standards and improve tax compliance in this sector.

TFG Recommendation 3

Government should urgently update its Best Practice Guidance. To achieve greater consistency in advance of national minimum standards, licensing authorities should only deviate from the recommendations in exceptional circumstances. In this event licensing authorities should publish the rationale for this decision.

Where aspects of licensing are not covered by guidance nor national minimum standards, or where there is a desire to go above and beyond the national minimum standard, licensing authorities should aspire to collaborate with adjoining areas to reduce variations in driver, vehicle and operator requirements. Such action is particularly, but not exclusively, important within city regions.

Government response

- 2.8 The Government welcomes this recommendation, recognising as it does the leadership role that Government must play but also the shared collective responsibility that licensing authorities have to work together to increase consistency beyond safety standards and in doing so address the root cause of wider concerns over 'out-of-area' working by some licensees.
- 2.9 Alongside this response, the Department is for the first time consulting on statutory guidance to be issued to licensing authorities which details the Department's view of how their functions may be exercised so as to protect children and vulnerable adults from harm. Licensing authorities are obligated to have regard to this guidance, and as such we expect the final recommendations to be enacted unless there is a clear local reason to deviate from them.

TFG Recommendation 4

In the short-term, large urban areas, notably those that have metro mayors, should emulate the model of licensing which currently exists in London and be combined into one licensing area. In non-metropolitan areas collaboration and joint working between smaller authorities should become the norm.

Government having encouraged such joint working to build capacity and effectiveness, working with the Local Government Association, should review progress in non-metropolitan areas over the next three years.

Government Response

- 2.10 The Government agrees that collaboration and joint working can be helpful in ensuring efficient operation of taxi and PHV licensing in smaller local authorities. The Government will keep progress in this area under review.

TFG Recommendation 5

As the law stands, plying for hire is difficult to prove and requires significant enforcement resources. Technological advancement has blurred the distinction between the two trades.

Government should introduce a statutory definition of both plying for hire and pre-booked in order to maintain the two-tier system. This definition should include reviewing the use of technology and vehicle 'clustering' as well as ensuring taxis retain the sole right to be hailed on streets or at ranks.

Government should convene a panel of regulatory experts to explore and draft the definition.

Government response

- 2.11 This matter was the subject of specific consideration by the Law Commission in the course of its review. The Commission ultimately concluded that a statutory definition of plying for hire would not be a practical improvement on the current position. This decision was reached with the advice of an expert panel established specifically for the purpose of discussing reform of "plying for hire". The Commission's main reason

for reaching this conclusion was that whether a vehicle is plying for hire in particular circumstances is a matter of fact and degree that the courts must consider. It concluded that many of the current grey areas would remain unresolved as no statutory list of factors could be sufficiently determinative to give clear guidance.

- 2.12 We have no reason to believe that the legal situation has changed since 2014, and thus no reason to believe that a new or reconvened expert panel would reach a different conclusion. As a result, the Government does not intend to take this recommendation forward at this time.

TFG Recommendation 6

Government should require companies that act as intermediaries between passengers and taxi drivers to meet the same licensing requirements and obligations as PHV operators, as this may provide additional safety for passengers (e.g. though greater traceability).

Government response

- 2.13 PHV operators, and companies that act as intermediaries for taxi bookings, do perform functions that appear very similar. However, the Government is not convinced that there is a compelling case for the licensing of taxi intermediaries (such as taxi apps or radio circuits).
- 2.14 An operator is fundamental to the booking of a PHV, and so has a distinct and legally necessary role in the regulatory system. Conversely, when a taxi is requested via an intermediary, that intermediary is doing nothing more than passengers could do themselves - they merely convey the request from the passenger to a taxi driver. This is unlike the situation with PHVs where it would be illegal for the passenger to engage the services of the driver directly, and the involvement of the PHV operator is necessary to make the journey a lawful one. This distinction reflects the greater degree of regulation applied to taxis than PHVs.
- 2.15 The Law Commission also considered this, and concluded that intermediaries working solely with licensed taxis should not require licensing.

TFG Recommendation 7

Central Government and licensing authorities should 'level the playing field' by mitigating additional costs faced by the trade where a wider social benefit is provided – for example, where a wheelchair accessible and/or zero emission capable vehicle is made available.

Government Response

- 2.16 Government is aware of the additional cost involved in the purchase of a wheelchair accessible vehicle (WAV) or a zero-emission capable vehicle, whether voluntarily or because of licensing requirements.

- 2.17 For zero-emission capable vehicles, the Government provides the plug-in car grant² and the plug-in taxi grant³.
- 2.18 A number of authorities are proactively encouraging the provision of WAVs through offering discounted licensing fees for these vehicles. Government welcomes this initiative and would encourage licensing authorities to consider what other incentives could be offered (particularly those which may not impose costs on licensing authorities themselves - for example, allowing WAVs access to bus lanes).
- 2.19 The Government does not propose to introduce further financial incentives for taxis and PHVs based on vehicle type at the current time; however we will keep this under review.

TFG Recommendation 8

Government should legislate to allow local licensing authorities, where a need is proven through a public interest test, to set a cap on the number of taxi and private hire vehicles they license. This can help authorities to solve challenges around congestion, air quality and parking and ensure appropriate provision of taxi and private hire services for passengers, while maintaining drivers' working conditions.

Government Response

- 2.20 Local licensing authorities outside London can currently limit the number of taxis they licence, provided there is no significant 'unmet demand' for taxi services in their areas. It is not currently possible by law for any licensing authority in England to limit the number of PHVs it licenses.
- 2.21 The TFG members had differing opinions on this recommendation, recorded in their comments in the annex to the report; Transport for London (TfL) strongly supports it, while some other members flag concerns about the effects on competition in particular. Competition benefits consumers by incentivising operators to give value for money, to innovate, and drive improvements in service standards.
- 2.22 Of particular concern would be any potential impact on safety. An undersupply of vehicles would increase wait times and cause people to be stranded in vulnerable situations, potentially increasing the use of unlicensed, unvetted and illegal drivers and vehicles. We acknowledge that the recommendation is that licence 'caps' should require a public interest test, which may allow for consideration of any negative impacts. Nevertheless, the potential negative impacts of capping for passengers are considerable, and real-life demand for taxi and PHV services can be very difficult to accurately calculate. Reducing the availability of PHVs could also result in higher prices for passengers, as, unlike taxis, PHV fares are not controlled.
- 2.23 There has been significant growth in the number of PHVs licensed in London in recent years; there was an increase of 66% between March 2014 and March 2017, from around 53,000 vehicles to nearly 88,000. Since then, the number does appear to have stabilised at around 87,500.⁴ TfL has congestion charging powers, and has announced following public consultation that the exemption from the congestion

² <https://www.gov.uk/government/publications/plug-in-car-grant/plug-in-car-grant-eligibility-guidance>

³ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/682046/plugin-taxi-grant-vehicle-application-guidance.pdf

⁴ <https://tfl.gov.uk/info-for/taxis-and-private-hire/licensing/licensing-information>

charge currently given to PHVs when they are working will be removed from April 2019.⁵

- 2.24 The Government does not propose to take this recommendation forward. We would instead wish to see local authorities make the most use of existing powers to address air quality and congestion issues.

TFG Recommendation 9

All licensing authorities should use their existing powers make it a condition of licensing that drivers cooperate with requests from authorised compliance officers in other areas. Where a driver fails to comply with this requirement enforcement action should be taken as if the driver has failed to comply with the same request from an officer of the issuing authority

Government Response

- 2.25 The Government welcomes this recommendation. Regardless of any current or future rules on cross-border working (see paragraphs 2.30 - 2.35), drivers will on occasion encounter licensing officers from other authorities.
- 2.26 We are aware of a number of authorities that already have this requirement as part of their licensing conditions and we would encourage other licensing authorities to do so too. Where drivers are working in an area other than that in which they are licensed, it should be expected that licensees comply with the reasonable requests of any licensing officers, assisting them in ensuring compliance with appropriate standards, and ultimately protecting passengers.

TFG Recommendation 10

Legislation should be brought forward to enable licensing authorities to carry out enforcement and compliance checks and take appropriate action against any taxi or PHV in their area that is in breach of national minimum standards (recommendation 2) or the requirement that all taxi and PHV journeys should start and/or end within the area that issued the relevant licences (recommendation 11).

Government Response

- 2.27 The Government agrees that there should be national enforcement against the national minimum standards that will be introduced in response to recommendation two, and will legislate for this when time allows.
- 2.28 As noted above, regardless of any current or future rules on cross-border working, drivers will inevitably undertake some journeys which take them outside their licensed area. The benefits to passenger safety resulting from robust national minimum standards can only be maximised when effective enforcement ensures compliance with these, regardless of where journeys are taking place.

⁵ <https://consultations.tfl.gov.uk/policy/private-hire-charge-exemption/> (the exemption will continue to be available for wheelchair accessible PHVs).

- 2.29 The Government will work closely with licensing authorities and enforcement officers to ensure that the precise scope of national enforcement powers, and how they would be used in practice, are carefully considered and defined.

TFG Recommendation 11

Government should legislate that all taxi and PHV journeys should start and/or end within the area for which the driver, vehicle and operator (PHVs and taxis – see recommendation 6) are licensed. Appropriate measures should be in place to allow specialist services such as chauffeur and disability transport services to continue to operate cross border.

Operators should not be restricted from applying for and holding licences with multiple authorities, subject to them meeting both national standards and any additional requirements imposed by the relevant licensing authority.

Government Response

- 2.30 There are clearly a range of views within the sector and interested parties about how cross-border, or out-of-area, journeys by taxis and PHVs should be permitted or restricted. This can clearly be seen in the range of views expressed by individual members of the TFG in their comments in the annex to the report.
- 2.31 Currently, a PHV journey can take place anywhere in England provided that the driver, vehicle and operator are licensed by the same licensing authority. However, the licensing requirements in different areas (for example, the training required of drivers or the vehicle standards set) can vary considerably.
- 2.32 Such variations, combined with the freedom to carry out journeys anywhere, can incentivise drivers or operators to license away from the area where they actually intend to carry out work. This means that the ability of local licensing authorities to set and maintain taxi and PHV standards for their local areas is undermined.
- 2.33 We acknowledge the view that national minimum standards will go some way towards resolving that problem. The Suzy Lamplugh Trust noted in its comments on the TFG report that it did not support recommendation 11 because the introduction of national minimum standards would resolve the current practice of drivers choosing which licensing authority to obtain their licence from based on "less stringent" safety checks.
- 2.34 Even with national minimum standards in place, there will still be variations in licensing conditions (and therefore matters like licence costs and processing times), since the Government does not intend to remove the ability of licensing authorities to set their own local standards in matters not covered by the national minimum standards, or above and beyond those minimum standards. Local authorities are accountable for licensing in their areas and it is only right that they have the powers to properly shape and influence their local market.
- 2.35 Government therefore agrees with the principle of this recommendation, and will consider further (with a view to legislation) how it might best work in detail. In particular, Government will need to consider what size of area is appropriate. We will also consider what flexibilities or exemptions might be needed to reduce or avoid negative impacts on any particular business models, types of transport or passenger,

and businesses or localities that are close to (perhaps multiple) licensing authority borders.

TFG Recommendation 12

Licensing authorities should ensure that their licensing administration and enforcement functions are adequately resourced, setting fees at an appropriate level to enable this.

Government Response

- 2.36 The prime reason for regulation of taxis and PHVs is to protect the public and licensing authorities must ensure that this function is sufficiently resourced to do so. We therefore urge licensing authorities to ensure that they have efficient and effective procedures in place to minimise the cost to the trade of establishing a robust and well-resourced licensing body and undertake a review of their licensing fees to recover the permissible costs and no more of providing this.

TFG Recommendation 13

Legislation should be introduced by the Government as a matter of urgency to enable Transport for London to regulate the operation of pedicabs in London

Government Response

- 2.37 The Government fully supports this recommendation.
- 2.38 Under the current law, pedicabs can be regulated as taxis elsewhere in England but not in London. This is the result of the differing legislation that governs London and the rest of England. In London, pedicabs are considered to be 'stage carriages' rather than taxis (hackney carriages). The resulting lack of any regulation of pedicabs in London is an anomaly which needs fixing, in the clear interest of passengers.
- 2.39 The Government has worked with TfL to support the Pedicabs (London) Private Members' Bill brought forward by Paul Scully MP. The objective of the Bill has cross party support, and we hope that Parliament will enable this to become statute.
- 2.40 Should the Pedicabs (London) Bill not become law, the Government will put forward its own legislation when time permits to enable TfL to regulate pedicabs.

TFG Recommendation 14

The Department for Transport and Transport for London should work together to enable the issue of Fixed Penalty Notices (FPNs) for both minor taxi and PHV compliance failings. The Department for Transport should introduce legislation to provide all licensing authorities with the same powers.

Government Response

- 2.41 The Transport for London Act 2008 enables an FPN system to be introduced for certain taxi and PHV offences within London. These powers have never been commenced by TfL. Despite the title of the relevant schedule to the 2008 Act, the list of offences only relates to Acts which govern taxi regulation and therefore would not enable FPNs to be issued regarding any PHV offence.
- 2.42 The Department for Transport and TfL are discussing what amendments to the schedule of offences would be required to address this regulatory imbalance and address TfL's concerns, so that it can make effective use of its powers.
- 2.43 The Department is aware that a number of licensing authorities operate a penalty points system to address minor infringements. We will engage with licensing authorities to establish if there is significant demand for a power to issue fixed penalty notices outside of London to assist in the enforcement of national minimum standards.

TFG Recommendation 15

All ridesharing service services should explicitly gain the informed consent of passengers at the time of the booking and commencement of the journey.

Government Response

- 2.44 Taxi and PHV ridesharing services (i.e. multiple passengers sharing a taxi or PHV to the same, or similar, destinations who are charged separate fares - for example, the 'Uber Pool' service) have been permitted for over 30 years but the adoption by the public of new technology is likely to increase the participation rate.
- 2.45 Government supports choice for consumers but this must be an informed choice. It would be unacceptable for any person to be led to believe that they are hiring a taxi or PHV exclusively, and then be expected to share with other passengers who are unknown to them. Although the TFG report does not present any evidence that such confusion is happening in practice, operators should ensure their systems make it entirely clear to passengers when they are engaging a shared service. Licensing authorities may wish to ensure that their operator licensing conditions make clear that operators must do this.

3. Safety in taxis and private hire vehicles

- 3.1 Many of the recommendations made by the TFG Report in this area call on local licensing authorities to make better use of their existing powers, ahead of Government legislating for the introduction of national minimum standards.

TFG Recommendation 16

The Department for Transport must as a matter of urgency press ahead with consultation on a draft of its Statutory Guidance to local licensing authorities. The guidance must be explicit in its expectations of what licensing authorities should be doing to safeguard vulnerable passengers. The effectiveness of the guidance must be monitored in advance of legislation on national minimum standards.

Government Response

- 3.2 The TFG received submissions and heard evidence on ways to increase passenger safety from a wide range of organisations.
- 3.3 Both the Jay and Casey Reports into child sexual abuse and exploitation noted the prominent role played by taxi and PHV drivers in a large number of cases of abuse. The Casey Report in particular uncovered what was described as "weak and ineffective arrangements for taxi licensing which leave the public at risk." To help reduce the risk posed to children and vulnerable individuals from harm by taxi and PHV drivers who seek to abuse their position of trust, section 177 of the Policing and Crime Act 2017 enables the Secretary of State to issue statutory guidance to licensing authorities on the exercise of their taxi and PHV licensing functions.
- 3.4 The TFG was invited to review the draft statutory guidance ahead of the public consultation, and it has now been published for consultation alongside this response. The Department is grateful to the organisations it engaged with while drafting the guidance for consultation, and we encourage all organisations and individuals with views on the guidance to respond to the consultation.

TFG Recommendation 17

In the interests of passenger safety, particularly in the light of events in towns and cities like Rochdale, Oxford, Newcastle and Rotherham, all licensed vehicles must be fitted with CCTV (visual and audio) subject to strict data protection measures. Licensing authorities must use their existing power to mandate this ahead of the requirement's inclusion in national minimum standards.

To support greater consistency in licensing, potentially reduce costs and assist greater out of area compliance, the Government must set out in guidance the standards and specifications of CCTV systems for use in taxis and PHVs. These must then be introduced on a mandatory basis as part of national minimum standards

Government Response

- 3.5 The Government's view on the use of CCTV in taxis and private hire vehicles is set out in the consultation on draft statutory guidance which accompanies this response.
- 3.6 It is the Department's view that CCTV (with targeted overt recording of audio instigated when either the passenger or driver deems necessary) provides additional public protection - to both passengers and drivers - providing a fuller objective record of events, assisting in identification of unacceptable and/or illegal behaviour by all occupants of the vehicle. As the TFG report identifies, ridesharing in taxis and PHVs is becoming more popular, introducing further risks as passengers are travelling in close proximity with strangers.
- 3.7 However, Government must also consider the importance of protecting individuals' privacy. It is vital therefore that any recordings made are able to be viewed only by those with a legitimate need to do so, such as the police when investigating an allegation or licensing authorities in response to a complaint. Licensing authorities should refer to guidance issued by the Information Commissioner and the Surveillance Camera Commissioner when formulating their policies on the specification and use of in vehicle CCTV system.
- 3.8 It should be noted that where a local authority considers granting a license subject to CCTV conditions, it assumes the role of a system operator for the purposes of the Home Secretary's Surveillance Camera Code issued under the Protection of Freedoms Act 2012, which means it must have regard to the Code; and is the data controller for the purposes of the Data Protection Act 2018.

TFG Recommendation 18

As Government and local authorities would benefit from a reduction in crime in licensed vehicle both should consider ways in which the costs to small businesses of installing CCTV can be mitigated.

Government Response

- 3.9 It is likely that Government and local authorities would benefit from a reduction in crime as a result of more extensive installation of CCTV in taxis and PHVs. However, CCTV is installed in many businesses at their own cost with an expectation that this

will deter crime and so protect their staff and property. For example, similar conditions may be required before granting establishments a licence to sell alcohol.

- 3.10 Government has acted to assist the trade where tighter regulation has significantly increased costs, for example providing a grant of up to £7,500 to assist the trade in transitioning to zero emission capable vehicles. The cost of installing a CCTV system is similar to a replacement set of tyres for a vehicle; as such we do not consider subsidising of these additional costs is necessary.

TFG Recommendation 19

National standards must set requirements to assist the public in distinguishing between taxis, PHVs and unlicensed vehicles. These should require drivers to have on display (e.g. a clearly visible badge or arm-band providing) relevant details to assist the passengers in identifying that they are appropriately licensed e.g. photograph of the driver and licence type i.e. immediate hire or pre-booked only.

All PHVs must be required to provide information to passengers including driver photo ID and the vehicle licence number, in advance of a journey. This would enable all passengers to share information with others in advance of their journey. For passengers who cannot receive the relevant information via digital means this information should be available through other means before passengers get into the vehicle.

Government Response

- 3.11 It is clearly important that people are able to identify a licensed vehicle and driver, minimising the risk of them travelling in vehicles that are not licensed or correctly insured.
- 3.12 It is also common that people do not understand fundamental differences between taxis and PHVs; comments from the Suzy Lamplugh Trust in the annex to the TFG report highlight that over a quarter of people believe PHVs can be hired directly through the driver.
- 3.13 There are divergent standards through England as to what a taxi and PHV may look like, or display. These differences range from the minor e.g. whether an operator's details can or must be displayed (either permanently or in a form which can be removed) to specifying what colour vehicles must be in order to be licensed.
- 3.14 The Government will consider what vehicle and driver identification requirements should be included within national minimum requirements, focussing on supporting safety. Over and above national minimum standards, local considerations (particularly in respect of vehicle licensing conditions) will remain important.

TFG Recommendation 20

All drivers must be subject to enhanced DBS and barred lists checks. Licensing authorities should use their existing power to mandate this ahead of inclusion as part of national minimum standards.

All licensing authorities must require drivers to subscribe to the DBS update service and DBS checks should must be carried out at a minimum of every six months. Licensing authorities must use their existing power to mandate this ahead of inclusion as part of national standards.

Government Response

- 3.15 The Government agrees with both parts of this recommendation, and they are included in the statutory guidance which has been issued for consultation alongside this response. In the longer term, they will be considered as part of national minimum standards.
- 3.16 In 2012 the Government enabled licensing authorities to undertake enhanced Disclosure and Barring Service (DBS) checks; this includes the ability to check both barred lists, which list people who are prevented from working with children and/or adults as they are, have been, or might in the future be, engaged in regulated activity or where a person is cautioned or convicted for a relevant (automatic barring) offence. As the TFG report acknowledges, all licensing authorities have a stated policy of requiring enhanced DBS checks for taxi and PHV drivers, but a small minority of authorities do not also check the barred lists despite there being no additional cost to do so.
- 3.17 The TFG report also highlights the benefits of requiring licensees to subscribe to the DBS's update service, through reduced administration and lower long-term costs for both licensing authorities and licensees themselves.

TFG Recommendation 21

Government must issue guidance, as a matter of urgency, that clearly specifies convictions that it considers should be grounds for refusal or revocation of driver licences and the period for which these exclusions should apply. Licensing authorities must align their existing policies to this ahead of inclusion in national minimum standards.

Government Response

- 3.18 The Government agrees with this recommendation, and its view has been included in the statutory guidance which has been issued for consultation alongside this response.
- 3.19 As with the introduction of national minimum standards, Government will seek to balance the need for greater nationwide consistency with respect for local decision making. We welcome the work that the Institute of Licensing in partnership with the Local Government Association, the National Association of Licensing and Enforcement Officers and Lawyers in Local Government have done in this area. Their work has informed the guidance on previous convictions that is included in the

draft statutory guidance. The intention is that, subject to the outcome of the consultation, this will be included in national minimum standards.

TFG Recommendation 22

The Quality Assurance Framework and Common Law Police Disclosure Provisions must be reviewed to ensure as much relevant information of behaviours as well as crimes by taxi and PHV drivers (and applicants) is disclosed to and to ensure licensing authorities are informed immediately of any relevant incidents.

Government Response

- 3.20 Under section 113B (4) of the Police Act 1997, the legislation requires that the DBS requests that a relevant Chief Officer of police provide any information which he/she reasonable believes to be relevant and considers ought to be disclosed. The Quality Assurance Framework (QAF) is the decision-making tool used by the Disclosure Units of police and other law enforcement agencies when considering whether information should be disclosed or not for inclusion in Enhanced Disclosure and Barring Service certificates. This is overseen by the National Police Chiefs' Council (NPCC) as it relates to the statutory police role within the disclosure regime.
- 3.21 Under Common Law Police Disclosure provisions (CLPD), the police can use their common law powers for the prevention and detection of crime to proactively provide police intelligence or information to a third party (such as a licensing authority) where there is a public protection risk, to allow them to act swiftly to mitigate any danger. It is for Chief Police Officers to locally determine the implementation of CLPD provisions.
- 3.22 Government will discuss the provision of information with the NPCC with a view to ensuring that appropriate steps are being taken to provide relevant information to licensing authorities.

TFG Recommendation 23

All licensing authorities must use the National Anti-Fraud Network (NAFN) register of drivers who have been refused or had revoked taxi or PHV driver licence. All refusals and revocations must be recorded, and the register checked for all licence applications and renewals. Licensing authorities must retain the reasons for any refusal, suspension or revocation and provide those to other authorities as appropriate. The Government must, as a matter of urgency, bring forward legislation to mandate this alongside a national licensing database (recommendation 24).

Government Response

- 3.23 It is important that licensing authorities who are making a decision on whether to grant a taxi or PHV driver licence can do so in possession of all relevant facts, including whether the applicant has been refused or lost a licence in another area because of safety concerns. At present, there is no data sharing mechanism to make sure that such history is disclosed to them.

- 3.24 The Government supports the Private Member's Bill brought by Daniel Zeichner MP that would mandate licensing authorities to use such a database. The Government also welcomes the initiative of the LGA in setting up a voluntary database of drivers who have been refused or revoked licences. Any information obtained using data sharing methods like this must be used as an aid to local, independent decision making. The statutory guidance which is published for consultation alongside this response expands further on the Government's view.
- 3.25 In the longer term, the Government intends that information about drivers who have had licences refused or revoked would be one part of the wider-ranging national database discussed against the next recommendation (24).

TFG Recommendation 24

Government must establish a mandatory national database of all licensed taxi and PHV drivers, vehicles and operators, to support stronger enforcement.

Government Response

- 3.26 Government will legislate for the creation of a national taxi and private hire database, as a necessary accompaniment to national enforcement powers. Development of the database will take account of the work undertaken for the identification of taxis and PHVs for charging Clean Air Zone purposes.
- 3.27 It will assist in the effective application of national minimum standards by enabling suitably qualified local authority enforcement officers to take action against taxis and PHVs regardless of where they are licensed.
- 3.28 The establishment of a national licensing database will assist bodies such as licensing authorities and the police to communicate information in a timely manner, as it will enable them to quickly and accurately identify where a driver or vehicle are licensed. For example, this would assist the police in disclosing relevant information under the Common Law Police Disclosure powers.

TFG Recommendation 25

Licensing authorities must use their existing powers to require all drivers to undertake safeguarding / child sexual abuse and exploitation awareness training including the positive role that taxi/PHV drivers can play in spotting and reporting signs of abuse and neglect of vulnerable passengers. This requirement must form part of future national minimum standards.

Government Response

- 3.29 The Government welcomes this recommendation and the acknowledgement that such a requirement can be universally applied under powers already available to licensing authorities.
- 3.30 The draft statutory guidance which has been issued for consultation alongside this response includes a recommendation that licensees should be required to undertake safeguarding / child sexual abuse and exploitation awareness training.

- 3.31 In the longer term, the Government intends that this requirement would be included in national minimum standards.

TFG Recommendation 26

All individuals involved in the licensing decision making process (officials and councillors) must have to undertake appropriate training. The content of the training must form part of national minimum standards.

Government Response

- 3.32 It is important that councillors or officers making decisions about the suitability of licensing applicants are suitably trained and equipped to do so. Authorities may have very robust policies in place, but it is the practical application of these that provides protection to the public. Licensing officers may frequently be called on to make difficult decisions, such as revoking or refusing a licence conscious of the implications that decision may have on the applicant or licensee and their family. Licensing authorities must ensure that their decision makers are aware of the public protection role they have and that the overriding consideration is the safety of the public.
- 3.33 The draft statutory guidance which has been published for consultation alongside this response recommends that those charged with determining taxi and PHV licensing matters undertake appropriate training.
- 3.34 In the longer term the Government intends that the requirement for training would be included in national minimum standards.

TFG Recommendation 27

Government must review the assessment process of passenger carrying vehicle (PCV) licensed drivers and/or consider the appropriate licensing boundary between taxis/PHVs and public service vehicles (PSVs).

Government Response

- 3.35 The TFG report explains the current demarcation (i.e. seating capacity) and differing licensing processes between the PHV and Public Service Vehicle (PSV - minibuses, buses and coaches) regimes.
- 3.36 The Government attaches the utmost priority to passenger safety in the licenced taxi and PHV trade. The licensing regime for any transport mode must be reflective of the relative potential risk they might pose to the travelling public. It is not therefore acceptable that the PHV licensing regime may be evaded through the use for PHV bookings of drivers and vehicles which are not licensed for PHV purposes.
- 3.37 Where PHV operators also hold a PSV operator's licence, PSVs should not be used to fulfil bookings except with the informed consent of the hirer. For example, if a member of the public contacts a PHV operator and seeks a booking for a party of fewer than nine passengers, it cannot be reasonable to assume that a PSV is required unless there are other factors e.g. a large amount of baggage. If, for

example, a nine-seater minibus (a PSV) is necessary, the difference in licensing requirements should be explained and explicit consent obtained. Licensing authorities should use their existing powers to include as a condition of a PHV operator's licence that bookings received by that licence-holder must be fulfilled using a PHV licensed driver and vehicle. Authorities may then take appropriate steps to monitor and enforce compliance with the licence condition.

- 3.38 In the longer term, it will be important to consider as part of the Future of Mobility Grand Challenge what changing technologies and ways of working might mean for the differing regulatory frameworks applied to road transport in the UK, including whether the number of seats in a vehicle remains an appropriate way of deciding how to regulate.

TFG Recommendation 28

Licensing authorities must require that all drivers are able to communicate in English orally and in writing to a standard that is required to fulfil their duties, including in emergency and other challenging situations.

Government Response

- 3.39 Government supports this recommendation. Those that carry members of the public must be able to understand the needs of their passengers.
- 3.40 The draft statutory guidance which has been issued for consultation alongside this response recommends that licensing authorities require an English assessment (oral and written) for their licensees.
- 3.41 In the longer term, Governments intends that this requirement would be included in national minimum standards.

4. Accessibility

TFG Recommendation 29

All licensing authorities should use their existing powers to require that their taxi and PHV drivers undergo disability awareness and equality training. This should ultimately be mandated as part of national minimum standards.

Government Response

- 4.1 The Government supports this recommendation. Taxis and PHVs play a vital role in enabling disabled people to travel where other modes may not be available or accessible. The Department has, in previous best practice guidance, encouraged licensing authorities to use their powers to improve drivers' awareness of the needs of disabled people including by undertaking disability awareness training. This training should include awareness of less visible impairments, such as learning disabilities and dementia.
- 4.2 Licensing authorities have the powers to mandate this training. The TFG report highlights the low proportion of authorities (38% as of 31 March 2017, increasing to 41% as of 31 March 2018) which currently do so.
- 4.3 Since the Group submitted its report, Government has published the Inclusive Transport Strategy⁶ (ITS). The ITS includes a commitment to consult on updated best practice guidance which should better support licensing authorities to use their existing powers. In particular, we will recommend that authorities require taxi and PHV drivers to complete disability awareness and equality training, make it simple to report discrimination, and take robust action against drivers who have discriminated against disabled passengers.
- 4.4 In the longer term the Government intends that these training requirements will be included in national minimum standards.

TFG Recommendation 30

Licensing authorities that have low levels of Wheelchair Accessible Vehicles (WAVs) in their taxi and PHV fleet should ascertain if there is unmet demand for these vehicles. In areas with unmet demand licensing authorities should consider how existing powers could be used to address this, including making it mandatory to have a minimum number of their fleet that are WAVs. As a matter of urgency the Government's Best Practice Guidance should be revised to make appropriate recommendations to support this objective

⁶ <https://www.gov.uk/government/publications/inclusive-transport-strategy>

Government Response

- 4.5 The TFG report highlights the variation in the availability of wheelchair accessible vehicle (WAVs) across England. In over a quarter of authorities, 5% or fewer of taxis are wheelchair accessible, and this measure increases to nearly two-thirds of authorities for PHVs. It is however acknowledged that an entirely WAV fleet may not be beneficial to disabled passengers, most of whom are not wheelchair users.
- 4.6 In its comments in the annex to the TFG report, Transport for London comments on the difficulty in achieving a mixed PHV fleet as vehicles are often licensed by individuals rather than PHV operators to whom a quota might be more easily applied. The Local Government Association also noted that there may be practical barriers to mandating practicality minimum WAV numbers.
- 4.7 In the ITS Government stated a desire to see a much greater proportion of WAVs, particularly in non-urban areas, over the next 10 years. We will write to all local licensing authorities stressing the importance of supporting an inclusive taxi and PHV fleet.
- 4.8 We will continue to monitor the proportion of WAVs within overall taxi and PHV fleets, as reported in the annual DfT taxi and PHV statistics, and to seek clarification from authorities as to the steps they are taking to assess and respond to the local need for such vehicles.

TFG Recommendation 31

Licensing authorities which have not already done so should set up lists of Wheelchair Accessible Vehicles (WAVs) in compliance with s.167 of the Equality Act 2010, to ensure that passengers receive the protections which this provides.

Government Response

- 4.9 In 2017, the Government commenced sections 165 and 167 of the Equality Act 2010. Under Section 167 a licensing authority may publish a list of their licensed vehicles designated as wheelchair accessible; those vehicles are then required to apply the passenger protections in Section 165. These are to not charge more to a passenger in a wheelchair than to any other passenger, and to provide reasonable assistance (drivers may be exempted from the latter on medical grounds).
- 4.10 In the ITS, Government strongly encouraged licensing authorities to publish lists under section 167 of the Equality Act 2010 to ensure that wheelchair users are protected from discriminatory behaviour. The ITS also committed Government to:
- From autumn 2019 publish on an annual basis a list of those authorities which we know to have issued a list of taxis and PHVs designated as being wheelchair accessible in accordance with Section 167 of the Equality Act 2010;
 - Continue to encourage local licensing authorities, which have not already done so, to publish lists of taxis and PHVs designated as wheelchair accessible under Section 167 of the Equality Act 2010, and to inform the Department that they have done so.

TFG Recommendation 32

Licensing authorities should use their existing enforcement powers to take strong action where disability access refusals are reported, to deter future cases. They should also ensure their systems and processes make it as easy as possible for passengers to report disability access refusals.

Government Response

- 4.11 The TFG report notes the findings of a recent survey of guide dog owners which identified that almost half (42%) had experienced a refusal to enter a taxi or PHV in the previous year because of their dog. The Government agrees that this is unacceptable.
- 4.12 In the ITS we committed to undertake research to identify why the risk of fines and the loss of a driver's taxi or PHV licence appear insufficient in some circumstances to prevent them from discriminating against assistance dog owners. It is obvious that prevention of illegal refusals is preferable to retrospective sanctions, which do little to rebuild the confidence of assistance dog users who have been subject to illegal refusals. We will therefore use evidence from this research to inform ways in which training can play a role in preventing refusals occurring. As set out in response to recommendation 29 of the TFG report, Government intends to include disability awareness and equality training in national minimum standards.
- 4.13 The Government agrees that those that refuse to meet their legal obligation under Sections 168 and 170 of the Equality Act 2010 should be subject to enforcement action. We have stated in the ITS that licensing authorities should use the powers available to them, and take robust action against those who have discriminated illegally against disabled passengers.

5. Working conditions

TFG Recommendation 33

The low pay and exploitation of some, but not all, drivers is a source of concern. Licensing authorities should take into account any evidence of a person or business flouting employment law, and with it the integrity of the National Living Wage, as part of their test of whether that person or business is "fit and proper" to be a PHV operator.

Government Response

- 5.1 The TFG report acknowledges that the group did not have the expertise, nor was it within its scope, to determine the employment status of drivers. This is also true of licensing authorities; only the courts can make rulings on employment status.
- 5.2 However, the Government agrees that the decisions of tribunals, and whether an operator concerned is complying with a ruling in the way the law requires, should reasonably be considered by a licensing authority as part of the 'fit and proper' test for a PHV operator. It is unacceptable for business not to comply with and deny workers their statutory employment rights - such as the appropriate National Minimum Wage rate or National Living Wage - and if a business deliberately does so in disregard of what is required of them, this calls into question whether they are fit and proper to be licensed.
- 5.3 As the TFG report also notes, the current high-profile debate on employment status goes beyond the taxi and PHV sector. The Good Work Plan, published in December 2018, states Government will legislate to improve the clarity of the employment status tests, reflecting the reality of modern working relationships.

TFG Recommendation 34

Government should urgently review the evidence and case for restricting the number of hours that taxi and PHV drivers can drive, on the same safety grounds that restrict hours for bus and lorry driver.

Government Response

- 5.4 The TFG report explains that although the group did not receive independent evidence of the number of hours drivers are working (or, more specifically, driving), the current lack of regulation of working hours for taxi and PHV drivers may potentially be a cause for concern.

- 5.5 The report also acknowledges that there may be monitoring and enforcement problems to enforcing such limits. This is particularly the case in a sector where currently the majority of drivers are self-employed.
- 5.6 In the first instance, in order to assess the scale of the issue, the Government will engage informally with sector stakeholders to determine whether it is possible to more accurately assess the hours drivers are working, and whether there is a trend for working more or excessive hours. The Government is mindful not just of road safety, but also of the need to avoid burdensome, yet difficult to enforce, regulation.

Name and brief description of proposal / policy / service being assessed

For the Licensing and Registration Committee to consider introducing Child Sexual Exploitation (CSE) training as a mandatory condition on the Hackney Carriage and Private Hire driver's licence.

Information used to analyse the effects on equality

Key stakeholder and public consultation is still to be undertaken.

	Could particularly benefit (X)	May adversely impact (X)	Reasons	Is action possible? (to reduce negative or increase positive impact)	Details of actions planned or why action not possible
People from different ethnic groups	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Y	If CSE training is introduced as a mandatory condition, the advertisement of such training to the public will increase the confidence of passengers and increase community safety.
Men, women (including maternity/pregnancy impact), transgender people	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Y	
Disabled people or carers	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Y	
People from different faith groups	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Y	
Lesbian, gay or bisexual people	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Y	
Older or younger people	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Y	
Other (e.g. marriage/civil partnership, looked after children, cohesion)	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Y	

Outcome(s) of equality impact assessment:

No major change needed Adjust the policy Adverse impact but continue Stop and remove the policy/proposal

Arrangements for future monitoring of equality impact of this proposal / policy / service:

To be monitored if approved and introduced and then annually.

Approved by (manager signature): ***K N TOWNSHEND***

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By virtue of paragraph(s) 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

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