



LICENSING AND REGISTRATION COMMITTEE

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| DATE: | Wednesday, 6 November 2019 |
| TIME: | 7.30 pm |
| VENUE: | Council Chamber - Council Offices, Thorpe Road, Weeley, CO16 9AJ |

MEMBERSHIP:

| | |
|---|-------------------------------|
| Councillor Winfield (Chairman) | Councillor J Henderson |
| Councillor V Guglielmi (Vice-Chairman) | Councillor Knowles |
| Councillor Casey | Councillor Overton |
| Councillor Coley | Councillor Skeels |
| Councillor Davis | |

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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 28 October 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 10 April 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 38

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 7 June 2019 (Pages 5 - 8)

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

6 Minutes of the Miscellaneous Licensing Sub-Committee held on 9 September 2019 (Pages 9 - 10)

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

7 Minutes of the Premises/Personal Licences Sub-Committee held on 2 April 2019 (Pages 11 - 14)

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

8 Minutes of the Premises/Personal Licences Sub-Committee held on 30 May 2019 (Pages 15 - 20)

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

9 A.1 Applications approved under Delegated Powers (Pages 21 - 28)

The Committee noted the contents of a report (A.1) on the number of applications approved under delegated powers during the period 22 March 2019 – 24 October 2019.

10 Report of Corporate Director (Operational Services) A.2 - Child Sexual Exploitation (CSE) Training for Hackney Carriage and Private Hire Drivers and Operators (Pages 29 - 66)

To request that the Licensing and Registration Committee agree that Child Sexual Exploitation (CSE) training become a mandatory condition on the Hackney Carriage and Private Hire driver and operator licences for existing and new drivers and operators.

11 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”.

12 Exempt Minutes of the Meeting of the Miscellaneous Licensing Sub-Committee held on 9 September 2019 (Pages 67 - 72)

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

Date of the Next Scheduled Meeting

The next scheduled meeting of the Licensing and Registration Committee is to be held in the Council Offices, Thorpe Road, Weeley, CO16 9AJ at 7.30 pm on Wednesday, 15 January 2020.

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.

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Your calmness and assistance is greatly appreciated.

**MINUTES OF THE MEETING OF THE LICENSING AND REGISTRATION
COMMITTEE,
HELD ON WEDNESDAY, 10TH APRIL, 2019 AT 7.30 PM
IN THE COUNCIL CHAMBER - COUNCIL OFFICES, THORPE ROAD, WEELEY,
CO16 9AJ**

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

76. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from Councillors Davis, J Henderson and White. There were no substitutes.

77. MINUTES OF THE LAST MEETING

The minutes of the meeting of the Committee held on 30 January 2019 were approved as a correct record and signed by the Chairman.

78. DECLARATIONS OF INTEREST

There were none.

79. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 37

There were none.

80. MINUTES OF THE MEETING OF THE MISCELLANEOUS LICENSING SUB-COMMITTEE HELD ON 15 FEBRUARY 2019

The Committee received and noted, for information only, the minutes of the meeting of the Miscellaneous Licensing Sub-Committee held on 15 February 2019.

81. MINUTES OF THE PREMISES/PERSONAL LICENCES SUB-COMMITTEE HELD ON 1 FEBRUARY 2019

The Committee received and noted, for information only, the minutes of the meeting of the Premises/Personal Licences Sub-Committee held on 1 February 2019.

82. 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 21 March 2019.

83. **REPORT OF CORPORATE DIRECTOR (OPERATIONAL SERVICES) - A.2 - PROPOSED REVISION OF LICENSING ENFORCEMENT POLICY**

The Committee had before it a report (A.2) which requested it to approve, in principle, a revised draft Licensing Enforcement Policy, and sought its permission for the document to be circulated to key stakeholders for consultation purposes.

It was considered good practice that the Authority revised the policy on enforcement processes from time to time to ensure that the most current information and guidance was made available to applicants taking into consideration the current legislation and resources available.

It was therefore moved by Councillor Callender, seconded by Councillor Watson and unanimously **RESOLVED** that – (a) the draft Enforcement Policy, as set out in Appendix A to item A.2 of the Report of the Corporate Director (Operational Services), be approved, in principle.

(b) 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) 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 its consideration and formal adoption.

84. **REPORT OF CORPORATE DIRECTOR (OPERATIONAL SERVICES) - A.3 - CHILD SEXUAL EXPLOITATION (CSE) TRAINING FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS AND OPERATORS**

The Committee had before it a report (A.3) which requested it to consider whether Child Sexual Exploitation (CSE) Training should become a mandatory condition on the Hackney Carriage and Private Hire driver and operator licences for existing and new drivers and operators in an effort to improve awareness of the crucial and privileged role that drivers played in the safety of the community and, if so agreed, that this proposal be subject to external consultation.

Members asked the Licensing Manager (Karen Townshend) whether the public would be made aware that Hackney Carriage and Private Hire drivers and operators were required to undertake this training and she advised that she would consult with the Council's Communications Manager to arrange to issue an appropriate press release.

Members also asked questions of Richard Eastwood, the Council's Safer Communities Officer who responded accordingly.

It was therefore moved by Councillor Amos, seconded by Councillor Winfield and unanimously **RESOLVED** that – (a) the Committee agrees, in principle, to the requirement of Hackney Carriage and Private Hire drivers and operators completing CSE training, as a mandatory condition on the Hackney Carriage and Private Hire driver and operator licences for existing and new drivers and operators.

(b) the Licensing Manager be authorised to undertake external consultation over a 28 day period, and to report the results of such consultation to the next scheduled meeting of the Committee for its final decision.

85. EXCLUSION OF PRESS AND PUBLIC

RESOLVED 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.

86. EXEMPT MINUTES OF THE MEETING OF THE MISCELLANEOUS LICENSING SUB-COMMITTEE HELD ON 15 FEBRUARY 2019

The Committee received and noted, for information only, the exempt minutes of the meeting of the Miscellaneous Licensing Sub-Committee held on 15 February 2019.

The meeting was declared closed at 8.00 pm

Chairman

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**MINUTES OF THE MEETING OF THE MISCELLANEOUS LICENSING SUB-COMMITTEE,
HELD ON FRIDAY, 7TH JUNE, 2019 AT 10.00 AM
IN THE CONNAUGHT ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

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|-----------------------|---|
| Present: | Councillors V Guglielmi (Chairman), S Honeywood (Vice-Chairman) Casey and White |
| Also Present: | Councillor Turner |
| In Attendance: | Lisa Hastings (Head of Governance and Legal Services & Monitoring Officer), Karen Townshend (Licensing Manager), Emma King (Licensing Officer) and Debbie Bunce (Legal and Governance Administration Officer) |

1. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were submitted from Councillor J Henderson.

2. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Sub-Committee held on 15 February 2019 were approved as a correct record and signed by the Chairman.

3. DECLARATIONS OF INTEREST

There were none.

4. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 37

There were none.

5. 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 21 May 2019, which was submitted for information only.

6. REPORT OF CORPORATE DIRECTOR (OPERATIONAL SERVICES) - A.2 - APPLICATION FOR THE GRANT OF PERMISSION TO SHOW UNCLASSIFIED FILMS

The Sub-Committee had before it a report (A.2), which advised it of an application for the grant of permission to show unclassified films in partnership with the Harwich Electric Theatre as part of the Harwich Festival 2019.

The Licensing Manager informed Members that the applicant, Mr Offord, who was the General Manager of the Harwich Festival, which would run from 20 June until 30 June 2019, had requested permission on behalf of the Harwich Festival to show a number of

short independently made films at the Mayflower Heritage Centre as part of the festival entertainments programme. The films in question had not been classified by the British Board of Film Classification (BBFC). The project to show the films ran under the title of 'Harwich Shorts'.

. A Temporary Event Notice under the Licensing Act 2003 had been applied for to authorise the showing of films as a licensable activity.

It was reported that the Harwich Festival was a combined Arts Festival which embraced, music, film, dance, literature, poetry and visual and performing arts. The "Harwich Shorts" project was to be an open screening of independent films made and produced from within the local community.

The Licensing Manager reminded Members that ordinarily films for cinema or other general or limited release/showing were classified by the BBFC. The BBFC would classify a film into a suitable age category for viewing which would depend on the content of the film. For example, a film that contains adult themes such as extreme violence, drug taking, swearing or nudity would be certified with an appropriate age rating.

Members were informed that Local Authorities did have the discretion to amend a classification made by the BBFC or grant a classification to an unclassified film if requested to do so. It was rare that this happened and the vast majority of films were classified by the BBFC. Occasionally there were times when films to be shown at an arts festival for example, or for a very limited release/showing would apply to the relevant Local Authority to classify the film, rather than the BBFC.

It was reported that the films Mr Offord wanted to show were a selection of short films from various independent filmmakers and artists. A list of the short films had been submitted by Mr Offord and was attached as Appendix B to the report.

It was further reported that Mr Offord had not requested the films to be classified by the British Board of Film Classification (BBFC) as the cost would have made the project unviable. To classify the films for theatrical showing with the BBFC would have cost, it was estimated, more than £1,000.

Members were informed that as the compilation of films which Mr Offord wished to screen did not have the benefit of a certificate, the consent of the Council was required before the films could be shown.

Members were further informed that should they be minded to grant consent for the films, then they should also suggest a suitable classification. To assist Members, the BBFC Guidelines were attached as Appendix C to the report.

To assist Members, Licensing Officers had viewed the films and had made a recommendation on the classification for each film which the Sub-Committee could take into account in making its decision(s). The classifications were in accordance with the relevant BBFC Film Classification Guidelines which were set out in Appendix A for Members' guidance.

Officers had taken into consideration the various costs to cover the work that was involved in dealing with the application, including the production and printing of the covering committee report. Mr Offord had been invoiced £200 which was considered to be a fair, reasonable and proportionate amount that would enable the Licensing Service to recover its costs for the work that it has done on a cost neutral basis and which was in accordance with the provisions made under Section 3 of the Localism Act 2011.

The Chairman asked Mr Offord questions regarding some of the films which the Sub-Committee could not view due to copyright issues and Mr Offord explained the content of each film, which were predominantly music videos.

Mr Offord explained to the Sub-Committee that the project had been very successful last year and it had engaged young people and it had been rewarding for the youngsters to see their films on a large screen.

Following discussion, it was moved by Councillor White, seconded by Councillor Casey and:-

RESOLVED that the Sub-Committee approves the films to be classified, as set out in Appendix B to item A.2 of the Report of the Corporate Director (Operational Services) and recommended for inclusion as a mandatory condition for the licence to exhibit the films.

7. **REPORT OF CORPORATE DIRECTOR (OPERATIONAL SERVICES) - A.3.**
APPLICATION FOR THE GRANT RENEWAL OF A SEX ESTABLISHMENT LICENCE
- THE ADULT CENTRE, 28 ORWELL ROAD, CLACTON-ON-SEA

The Sub-Committee considered an application (A.3) from Miss Amanda Allen for the renewal of the Sex Establishment Licence held in respect of the above premises.

Miss Allen was not present for this item.

The Council's Licensing Manager informed Members that the Applicant proposed that trading would take place between 9.00am and 8.00pm on Mondays to Saturdays and 10.00am to 4.00 pm on Sundays. She also advised that the premises complied with the current conditions imposed, as set out in Appendix 'A' to item A.3 of the Report of the Corporate Director (Operational Services).

Members were informed that there had been no objections received from Essex Police and the local Ward Councillors. Residents in the neighbourhood considered likely to be affected by the application had been consulted and no objections had been received by the date of the meeting.

The Licensing Manager confirmed that notice of the application had been displayed on the premises in the prescribed manner and a public notice to that effect had been published in the local newspaper, as required by statute.

The Sub-Committee had before it, as set out in Appendix 'B' to the report, those grounds which were material to the determination of such an application, as set out in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.

The Sub-Committee asked the Licensing Manager whether this particular application had to be determined by the Sub-Committee each year and the Licensing Manager confirmed that the application could be delegated to Officers to determine.

The Head of Governance and Legal Services (Lisa Hastings) confirmed that the Licensing and Registration Committee would need to recommend a change to the Scheme of Delegation to Full Council but that this was something that could be presented to a future meeting of that Committee to consider.

It was moved by Councillor White, seconded by Councillor V Guglielmi and:-

RESOLVED that -

- (a) the application for the renewal of a Sex Establishment Licence be granted, for one year, subject to the conditions as set out in Appendix 'A' to item A.3 of the Report of the Corporate Director (Operational Services); and
- (b) that the procedure for determining future applications for the renewal of a Sex Establishment Licence be referred to the Licensing and Registration Committee with a view to amending the Scheme of Delegation to enable Officers to determine applications of this nature in the future, unless there were complaints or representations received from the Police or Members of the Public.

8. EXCLUSION OF PRESS AND PUBLIC

It was moved, seconded, and:-

RESOLVED – That under Schedule 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during the consideration of item 9 on the grounds that it involves the likely disclosure of exempt information and as defined in the relevant paragraph(s) of Part 1 of Schedule 12A, as amended, of the Act.

9. EXEMPT MINUTES OF THE MEETING OF THE MISCELLANEOUS LICENSING SUB-COMMITTEE

The exempt minutes of the meeting of the Miscellaneous Licensing Sub-Committee held on 15 February 2019 were approved as a correct record and signed by the Chairman.

The meeting was declared closed at 10.45 am

Chairman

**MINUTES OF THE MEETING OF THE MISCELLANEOUS LICENSING SUB-COMMITTEE,
HELD ON MONDAY, 9TH SEPTEMBER, 2019 AT 10.00 AM
IN THE COUNCIL CHAMBER - COUNCIL OFFICES, THORPE ROAD, WEELEY,
CO16 9AJ**

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| Present: | Councillors V Guglielmi (Chairman), Casey, Davis, J Henderson and Coley |
| In Attendance: | Linda Trembath (Senior Solicitor (Litigation and Governance) & Deputy Monitoring Officer), Karen Townshend (Licensing Manager), Michael Cook (Licensing Assistant) and Debbie Bunce (Legal and Governance Administration Officer) |

10. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from Councillor S Honeywood, with Councillor Coley substituting.

11. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Sub-Committee held on 7 June 2019, were approved as a correct record and signed by the Chairman.

12. DECLARATIONS OF INTEREST

There were no declarations of interest.

13. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were none.

14. 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 16 August 2019, which was submitted for information only.

15. EXCLUSION OF PRESS AND PUBLIC

It was moved and seconded, and:-

RESOLVED - 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:

Report of Corporate Director (Operational Services)

B.1 - Application for the Grant of Hackney Carriage/Private Hire Drivers' Licences.

The meeting was declared closed at 11.58 am

Chairman

**MINUTES OF THE MEETING OF THE PREMISES / PERSONAL LICENCES SUB-COMMITTEE,
HELD ON TUESDAY, 2ND APRIL, 2019 AT 10.00 AM
IN THE COUNCIL CHAMBER - COUNCIL CHAMBER**

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| Present: | Councillors V E Guglielmi, Cossens, Winfield and Watson (Standby Member) |
| In Attendance: | Linda Trembath (Senior Solicitor (Litigation and Governance) & Deputy Monitoring Officer), Karen Townshend (Licensing Manager), Emma King (Licensing Officer) and Debbie Bunce (Legal and Governance Administration Officer) |

32. CHAIRMAN FOR THE MEETING

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

RESOLVED – That Councillor V E Guglielmi be elected Chairman for the meeting.

33. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were no apologies for absence or substitutions.

34. MINUTES OF THE LAST MEETING

The minutes of the meeting of the Premises/Licences Sub-Committee held on 1 February 2019 were approved as a correct record and signed by the Chairman.

35. DECLARATIONS OF INTEREST

There were none.

36. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 37

There were none.

37. REPORT OF THE CORPORATE DIRECTOR (OPERATIONAL SERVICES) - P-V-S CONVENIENCE STORE, 139 OLD ROAD, CLACTON-ON-SEA, ESSEX CO15 3AT

The Chairman (Councillor Guglielmi) 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 variation of a Premises Licence for P-V-S Convenience Store, 139 Old Road, Clacton-on-Sea.

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

Every Day - 0000 to 2359.

Section 3.0 of the written report set out the current licensable activities which were:-

Sale of Alcohol off the premises

Monday to Saturday - 0700 to 0200

Sunday - 0700 to 0100

The applicant had stated the steps that they proposed to take to promote the statutory Licensing Objectives within the Operating Schedule and those steps were detailed in Sections 5.1 to 5.4 inclusive.

Members were further informed that one letter of representation/objection had been received from a resident 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) Hours of Trading

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

The Chairman invited the Applicant, Mr Suresh Theivendram to give representations to the Sub-Committee.

Mr Theivendram stated that, currently, the premises were open to sell alcohol until 2 a.m. and that customers had asked him why he did not open the shop for 24 hours as there were no other shops in the area which were open for longer.

Therefore, he had decided to apply for the 24 hour licence. He stated that the main items that people came into the shop for at night were bread, milk and baby items but that not a lot of alcohol was sold during that time. He mainly sold groceries and soft drinks. He further stated that he had never had any problems in the past with remaining open for 24 hours.

The Chairman asked whether he thought that there would be problems if he was able to sell alcohol 24 hours a day and Mr Theivendram replied that he had not had any problems so far. The lady and children living in the upstairs flat had never complained.

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

Members asked Mr Theivendram questions and stated that the existing licence had conditions imposed by Essex Police in that there had to be two people in the shop after 11.00 p.m. at all times and that a Personal Licence Holder had to be on the premises at all times. He replied that he always had two people working in the shop after 11.00 p.m. He also stated that he had adopted the Challenge 25 policy. He kept a register in the shop in this respect which the Council came in to periodically check and he had a sign at the till. Members reminded Mr Theivendram that if the Licence variation was granted the existing conditions would be transferred to the new licence.

Members also asked Mr Theivendram whether he was aware of the problems with alcohol in the Town Centre and he stated that he was, but that there had never been a problem in his part of town as there was a good community in the area.

Members then asked Mr Theivendram how many people he had working at the shop and he replied that three people worked there and that they were all over 21 years of age.

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 the 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: 19/00055/PREMVA – Application for the Variation of a Premises Licence in respect of 139 Old Road, Clacton-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 a resident 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 and to remind the applicant of the existing conditions and that they all remain applicable although noting that in relation to numbers 6 and 7 in Annex 3 these shall be amended so as to require a Personal Licence Holder to be on duty (and 2 staff present) during all periods alcohol is on sale, i.e. Monday to Sunday from 00.00 to 23.59.

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

This decision was made today, 2 April 2019 and will be confirmed in writing to all parties."

The meeting was declared closed at 10.46 am

Chairman

**MINUTES OF THE MEETING OF THE PREMISES / PERSONAL LICENCES SUB-COMMITTEE,
HELD ON THURSDAY, 30TH MAY, 2019 AT 10.00 AM
IN THE CONNAUGHT ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

| | |
|-----------------------|---|
| Present: | Councillors Winfield, J Henderson and Casey |
| Also Present: | Councillors Knowles and Overton |
| In Attendance: | Emma King (Licensing Officer), Michael Cook (Licensing Assistant), Linda Trembath (Senior Solicitor (Litigation and Governance) & Deputy Monitoring Officer) and Debbie Bunce (Legal and Governance Administration Officer) |

38. CHAIRMAN FOR THE MEETING

It was moved by Councillor Henderson, seconded by Councillor Casey and:

RESOLVED – That Councillor Winfield be elected Chairman for the meeting.

39. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were no apologies for absence or substitutions.

40. MINUTES OF THE LAST MEETING

The minutes of the meeting of the Premises/Personal Licences Sub-Committee held on 2 April 2019 were approved as a correct record and signed by the Chairman.

41. DECLARATIONS OF INTEREST

There were none.

42. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 37

There were none.

43. REPORT OF THE CORPORATE DIRECTOR (OPERATIONAL SERVICES) - 5TH AVENUE, 2-4 ORWELL ROAD, CLACTON-ON-SEA, ESSEX CO15 1PR

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

The Council's Licensing Officer (Emma King) then advised the Sub-Committee of some amendments to the Report in that the premises were incorrectly described as an off licence/convenience store but were in fact a bar and hotel and also that under the Current Licensable Activities the activity for Performance of Live Music had been omitted from the report. There was also an amendment to the Provision of Facilities for

Dancing as this did not include Mondays to Wednesdays. The Licensing Officer 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 variation of a Premises Licence for 5th Avenue, 2-4 Orwell Road, Clacton-on-Sea.

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

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|-----------------------------|----------------------|
| Monday to Wednesday | 10:00 - 00:30 |
| Thursday to Saturday | 10:00 - 02:30 |
| Sunday | 10:00 - 00:30 |

Section 3.0 of the written report set out the current licensable activities which were:-

Sale of Alcohol on and off the premises

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|----------------------|---------------|
| Monday to Wednesday | 10:00 - 00:00 |
| Thursday to Saturday | 10:00 - 02:00 |
| Sunday | 10:00 - 00:00 |

Provision of facilities for dancing

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|----------------------|---------------|
| Thursday to Saturday | 18:00 - 02:00 |
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Performance of Recorded Music

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|----------------------|---------------|
| Monday to Wednesday | 10:00 - 00:00 |
| Thursday to Saturday | 10:00 - 02:00 |
| Sunday | 10:00 - 00:00 |

Performance of Live Music

| | |
|----------------------|---------------|
| Thursday to Saturday | 18:00 - 00:00 |
| Sunday | 12:00 - 00:00 |

Late Night Refreshment

| | |
|------------------|---------------|
| Monday to Sunday | 23:00 - 02:00 |
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Section 4.0 set out the proposed licensable activities (variation application) as

4.1 Performance of Live Music – outside

Saturday and Sunday – 13:00 to 20:00

And

4.2 Performance of Recorded Music – outside

Saturday and Sunday – 13:00 to 20:00 hours

The applicant had stated the steps that they proposed to take to promote the statutory Licensing Objectives within the Operating Schedule and those steps were detailed in Sections 5.1 to 5.4 inclusive.

Members were further informed that one letter of representation/objection had been received from a resident in relation to this application.

It was reported that Essex Police has been consulted and submitted a representation on the grounds of noise disturbance. However, this has not been upheld by the Licensing Authority due to the noise management plan that was submitted to Environmental Control; with which they were satisfied.

The Council's Planning Authority had been consulted and no comments had been received.

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 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
- (3) Hours of Trading

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

The Chairman invited the Applicant, Ms Carol Pickett to give representations to the Sub-Committee.

Ms Pickett stated that the request to play music/karaoke on the outside seating area would be weather permitting. Ms Pickett was asked whether there would be excessive noise from customers leaving the premises, considering that the Care Home was opposite the premises. Ms Pickett said that as the premises were already operating then there would only be the same level of noise as at present and that people already sit in the outside seating area.

Ms Pickett was asked how big the outside seating area was and she stated that it was big enough to fit approximately 30 people. She stated that although her current licence allowed her to remain open until 2.00 a.m. she was never open beyond 1.00 a.m. even on a Saturday.

She said that other pubs in Clacton have outside karaoke. She wants to work with the community and not cause any problems. The outside music would be dependent upon the weather and so would probably not be many times a year. The outside music would be between the hours of 1.00 p.m. and 8.00 p.m. She stated that one public house nearby has outside speakers.

The Licensing Officer was asked to confirm what licences premises in the vicinity had. The Licensing Officer confirmed that Bentleys had outside music at the following times:-

Performance of Live Music

| | |
|---------------------|---------------|
| Friday and Saturday | 19:00 - 00:00 |
| Sunday | 15:00 – 22:00 |

Performance of Recorded Music

| | |
|---------------------|---------------|
| Monday to Thursday | 12:00 - 00:00 |
| Friday and Saturday | 12:00 - 02:30 |
| Sunday | 12:00 – 22:00 |

The Kassaba did not have outside music and the times were:

Performance of Live Music

| | |
|----------------------|---------------|
| Monday to Wednesday | 11:00 - 01:00 |
| Thursday to Saturday | 11:00 - 02:00 |
| Sunday | 11:00 - 01:00 |

Performance of Recorded Music

| | |
|----------------------|---------------|
| Monday to Wednesday | 11:00 - 01:00 |
| Thursday to Saturday | 11:00 - 02:00 |
| Sunday | 11:00 – 01:00 |

Ms Pickett stated that all she wanted was to be able to provide music outside during the Summer months and she confirmed that she would not be having music outdoors during the Winter months. Her doors were not open all the time at present.

The Chairman invited the Objector, Mr Milliken to give representations to the Sub-Committee.

Mr Milliken then addressed the Sub-Committee. He explained that he was the Chief Operating Officer for the Care Home and was here today as the Manager of the Care Home was currently on holiday. He confirmed that he had worked with the Manager to produce the objection letter.

He explained that he visited the home once or twice a week, and had done so over the last 2 years. He said that what the applicant had described was slightly different to his understanding. He stated that he had seen the patio doors at the premises open and there was a speaker on a stand facing outside. The music going outside was quite loud. He had visited the care home at 7.30 p.m. and the music was loud at that time.

He said that he had only seen 10-15 people in the outside seating area when he visited.

The Sub-Committee asked Mr Milliken whether the care home was affected by music from Bentleys which was around the corner and he stated that it was not.

Mr Milliken explained that the home is a nursing home accommodating 48 residents, although at the present time there were 42. Most residents were placed there by the County Council. He had noticed over the last couple of years that 60-70% of residents are at the end of life stage, and that the home was almost a hospice. He said that he was concerned that in their final days the residents had the additional noise of loud music and he said that was very sad.

Mr Milliken explained that he understood that 5th Avenue were in competition with other businesses but that the care home were in the same position. Residents families do have a choice where their relatives go and if when choosing a home they hear loud music it could damage their reputation.

Mr Milliken said that he welcomed the Noise Management Plan but felt that it lacked detail and wanted to know how noise would be managed and he would like to know more about the plan.

Ms Pickett said that visitors to the care home do visit 5th Avenue.

Mr Milliken was asked how long the care home had been open and he said that it has been run by the current owners for two years who took it on after the home went bust but that it had been there for many years.

Mr Milliken was asked whether the residents went out much and he said that at the end of life stage they did not go out very often and if they did their families usually took them out.

Mr Milliken was asked whether the care home had a garden and he said that they only had an outside space at the front of the property, which was not directly opposite the premises.

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.

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

"Application No. 19/00218/PREMVA – Application for the Variation of a Premises Licence in respect of 5th Avenue, 2-4 Orwell Road, Clacton-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, subject to the imposition of certain conditions.
3. In addition to any Mandatory Conditions and any conditions that are consistent with the Operating Schedule the following conditions will apply in order to satisfy the relevant Licensing Objective.

In respect of the Licensing Objective for The Prevention of Crime and Disorder, that any drinking or other outside crockery used or taken outside to be plastic in order to minimise the risk of harm to anyone.

In respect of the Licensing Objective for The Prevention of Public Nuisance, that live or recorded music outside the building be permitted between:

1 May and 30 September annually and the hours of 1400 to 2000 hours on Saturdays and Sundays only and as asked for.

The Committee have noted the concerns of the objector in relation to noise and that the police made representations although not upheld by the Licensing Officer because the Applicant submitted a Noise Management Plan to the Council. The Committee would like the Noise Management Plan to be reviewed by the Council's Environmental Health (Noise Specialist Officer), together with the Applicant and the Licensing Officer to make the terms clear for all parties and enable monitoring and enforcement.

Such review and finalisation of the Noise Management Plan to be completed by the end of July 2019.

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

This decision was made today, 30 May 2019 and will be confirmed in writing to all parties."

Please ensure that during office hours any complaints are made to the Environmental Department, and outside of office hours to Careline.

The meeting was declared closed at 11.22 am

Chairman

LICENSING AND REGISTRATION COMMITTEE

6 NOVEMBER 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 March 2019 to 24 October 2019.

(ii) **Personal Licences**

A total of 2142 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 (25 October 2019) |
|--|--|
| Adult Gaming Centres | 24 |
| Betting Premises | 15 |
| Bingo Premises | 10 |
| Family Entertainment Centres | 3 |
| Unlicensed Family Entertainment Centres | 30 |
| Prize Gaming Permits | 2 |
| Club Gaming & Club Machine Permits | 27 |
| Licensed Premises Gaming Machine Permits | 20 |
| Licensed Premises Machine Notifications | 126 |
| Small Society Lottery Permits | 114 |

(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 (25 October 2019) |
|--------------------------|--|
| Hackney Carriage Driver | 318 |
| Private Hire Driver | 10 |
| Hackney Carriage Vehicle | 245 |
| Private Hire Vehicle | 25 |
| Private Hire Operator | 21 |

RECOMMENDED: That Members note the contents of this report.

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Premises Licences Applications Granted 22/03/2019 to 24/10/2019

| Uniform Ref No | Organisation | Address | Grant/Conversion/Conversion and Variation | Date Delegation Exercised |
|-----------------|--|---|---|---------------------------|
| 19/00055/PREMVA | 139 Old Road, Clacton | 139 Old Road Clacton On Sea Essex CO15 3AT | Premises Licence Variation | 02/04/2019 |
| 19/00103/PREMGR | Prettyfields Vineyard Limited | Dead Lane Ardleigh Colchester Essex CO7 7PF | Premises Licence Grant | 05/04/2019 |
| 19/00220/PREMTR | The Hoy | 4 Clacton Road St Osyth Clacton On Sea Essex CO16 8PA | Premises Licence Transfer | 05/04/2019 |
| 19/00233/PREMTR | The Kings Head | 41 Victoria Place Brightlingsea Colchester Essex CO7 0HT | Premises Licence Transfer | 12/04/2019 |
| 19/00316/PREMTR | Southcliff Stores | 65 - 67 Holland Road Clacton-on-Sea Essex CO15 6EL | Premises Licence Transfer | 08/05/2019 |
| 19/00317/PREMTR | Vines Bistro Ltd - Previously Tasty Escape | 8 - 10 High Street Brightlingsea Colchester Essex CO7 0AE | Premises Licence Transfer | 10/05/2019 |

Premises Licences Applications Granted 22/03/2019 to 24/10/2019

| | | | | |
|-----------------|--|---|----------------------------|------------|
| 19/00351/PREMGR | Pier Hotel | 1 Orwell Road Clacton On Sea Essex CO15 1PR | Premises Licence Grant | 21/06/2019 |
| 19/00374/PREMTR | Vines Service Station - Previously MRH Vines | Vines Service Station 394 Main Road Harwich Essex CO12 4DN | Premises Licence Transfer | 06/06/2019 |
| 19/00414/PREMVA | MRH Frinton - Frinton Service Station | Frinton Service Station Frinton Road Kirby Cross Frinton On Sea Essex CO13 0PA | Premises Licence Variation | 19/07/2019 |
| 19/00416/PREMTR | Polski Sklep | 17 High Street Clacton On Sea Essex CO15 1NU | Premises Licence Transfer | 27/06/2019 |
| 19/00417/PREMGR | Best Supermarket | 30 Rosemary Road Clacton On Sea Essex CO15 1PA | Premises Licence Grant | 08/08/2019 |
| 19/00450/PREMTR | Walton Food And Drink | 53 - 55 High Street Walton-on-the-Naze Essex CO14 8BD | Premises Licence Transfer | 10/07/2019 |

Premises Licences Applications Granted 22/03/2019 to 24/10/2019

| | | | | |
|-----------------|--------------------------|---|----------------------------|------------|
| 19/00470/PREMVA | Iceland | 14 - 15 Triangle Shopping Centre Rochford Way Frinton-on-Sea Essex CO13 0AU | Premises Licence Variation | 08/08/2019 |
| 19/00471/PREMVA | Iceland Frozen Foods Plc | Iceland Frozen Foods Plc Waterglade Retail Park Old Road Clacton-on-Sea Essex CO15 1HX | Premises Licence Variation | 08/10/2019 |
| 19/00508/PREMTR | The Royal Oak Inn | Royal Oak Inn 226 Main Road Harwich Essex CO12 3PL | Premises Licence Transfer | 20/08/2019 |
| 19/00509/PREMTR | The Red Lion | Red Lion 8 Clacton Road St Osyth Clacton On Sea Essex CO16 8PA | Premises Licence Transfer | 20/08/2019 |
| 19/00537/PREMTR | The Crown | The Crown High Street Thorpe-le-Soken Clacton-on-Sea Essex CO16 0DY | Premises Licence Transfer | 17/09/2019 |

Premises Licences Applications Granted 22/03/2019 to 24/10/2019

| | | | | |
|-----------------|---|---|---------------------------|------------|
| 19/00538/PREMTR | The Wooden Fender | Wooden Fender Colchester Road Ardleigh Colchester Essex CO7 7PA | Premises Licence Transfer | 17/09/2019 |
| 19/00539/PREMTR | Harrys Bar And Restaurant | High Street Thorpe Le Soken Clacton On Sea Essex CO16 0EA | Premises Licence Transfer | 17/09/2019 |
| 19/00577/PREMGR | Waterside Marina Events Ltd | Unit 1 Harbour Square Waterside Marina Brightlingsea Colchester Essex CO7 0GE | Premises Licence Grant | 15/10/2019 |
| 19/00578/PREMTR | The Red Lion | The Red Lion Public House 32 The Street Kirby-le-Soken Frinton-on-Sea Essex CO13 0EF | Premises Licence Transfer | 01/10/2019 |
| 19/00579/PREMTR | Wine Well Ltd -High Street Convenience Store - Brightlingsea | 61 - 63 High Street Brightlingsea Colchester Essex CO7 0AQ | Premises Licence Transfer | 01/10/2019 |

Premises Licences Applications Granted 22/03/2019 to 24/10/2019

| | | | | |
|-----------------|----------------------------------|---|----------------------------|------------|
| 19/00581/PREMVA | The Railway Tavern | The Railway Tavern 58 Station Road Brightlingsea Colchester Essex CO7 0DT | Premises Licence Variation | 01/10/2019 |
| 19/00588/PREMTR | The Kings Arms | Kings Arms 10 Colchester Road St. Osyth Clacton-on-Sea Essex CO16 8HA | Premises Licence Transfer | 04/10/2019 |
| 19/00590/PREMTR | Sheldrake Convenience Store | Ground Floor The Sheldrake Meadow Way Jaywick Clacton On Sea Essex CO15 2HP | Premises Licence Transfer | 04/10/2019 |
| 19/00591/PREMTR | Cloverwood General Stores | Cloverwood General Stores Oakley Road Dovercourt Harwich Essex CO12 5DX | Premises Licence Transfer | 04/10/2019 |
| 19/00614/PREMTR | Golden Curry Tandoori Restaurant | 110 Pier Avenue Clacton-on-Sea Essex CO15 1NJ | Premises Licence Transfer | 16/10/2019 |

Premises Licences Applications Granted 22/03/2019 to 24/10/2019

| | | | | |
|-----------------|----------------|---|---------------------------|------------|
| 19/00615/PREMTR | Hampizz | 11 Pier Avenue Clacton On Sea Essex CO15 1QB | Premises Licence Transfer | 16/10/2019 |
| 19/00618/PREMTR | The Bell Hotel | High Street Thorpe-le-Soken Clacton-on-Sea Essex CO16 0DY | Premises Licence Transfer | 16/10/2019 |

Licensing and Registration Committee 06 November 2019

A.2 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 agree that Child Sexual Exploitation (CSE) training become a mandatory condition on the Hackney Carriage and Private Hire driver and operator licences for existing and new drivers and operators.

This request was considered at the last Licensing and Registration Committee held on 10 April 2019. Minute 84 states, "It was therefore moved by Councillor Amos, seconded by Councillor Winfield and unanimously **RESOLVED** that –

- (a) the Committee agrees, in principle, to the requirement of Hackney Carriage and Private Hire drivers and operators completing CSE training, as a mandatory condition on the Hackney Carriage and Private Hire driver and operator licences for existing and new drivers and operators.
- (b) The Licensing Manager be authorised to undertake external consultation over a 28 day period, and to report the results of such consultation to the next scheduled meeting of the Committee for its final decision.

The Licensing Manager can confirm that there were not any representations received as a result of the public consultation period.

If this request is agreed, funding will be finalised and once received, CSE training will be able to be implemented; this also allows for a 28 day implementation period.

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)

- (a) It is recommended that: the Committee agrees 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.**

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

A 28 day external consultation period has been conducted, along with consultation with existing licence holders and stakeholder, during which time no representations were received.

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)

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<https://learning.elucidat.com/course/5a8ee1d4d88ce-5bb4b5e529183>

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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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