



## NOTICE OF MEETING

**Meeting:** Licensing Committee

**Date and Time:** Monday 19 July 2010 at 7.00 pm

**Place:** Council Chamber, Civic Offices, Fleet

**Telephone Enquiries to:** (01252) 622122 Ext 4133 (Mrs Sue Kirkwood)

**Members:** Butler C, Butler G, Davies, Evans, Harward, Healey, Henderson, Kennett, Ive, Murr, Radley JR

G Bonner  
Chief Executive

CIVIC OFFICES, HARLINGTON WAY  
FLEET, HAMPSHIRE GU51 4AE

---

### AGENDA

**COPIES OF THIS AGENDA ARE AVAILABLE IN LARGE PRINT  
AND BRAILLE ON REQUEST**

#### **1 MINUTES OF THE PREVIOUS MEETING**

The minutes of the meeting held on 15<sup>th</sup> February 2010 are attached for confirmation and signature as a correct record. **(Paper A)**

#### **2 APOLOGIES FOR ABSENCE**

To receive apologies for absence

**3 DECLARATIONS OF INTEREST (PERSONAL OR PERSONAL AND PREDJUDICIAL)**

**4 CHAIRMAN'S ANNOUNCEMENTS**

**5 ELECTION OF THE VICE-CHAIRMAN**

**6 REVIEW OF STATEMENT OF LICENSING POLICY**

To advise Members of the need to review the current Statement of Licensing Policy. **(Paper B)**

**RECOMMENDATION**

That Members agree for the purposes of consultation the current Statement of Licensing Policy under the Licensing Act 2003 for the years 2010 to 2012.

**7 REVIEW OF HACKNEY CARRIAGE AND PRIVATE VEHICLE LICENSING STATEMENT OF POLICY**

To advise Members of the need to review 6.3 of the Hackney Carriage and Private Hire Licensing Statement of Policy (Appendix A). **(Paper C)**

**RECOMMENDATION**

That Members agree the policy statement in relation to the age of licensable vehicles to ensure transparency of decision making.

The Human Rights Act 1998 (the Act) has incorporated part of the European Convention on Human Rights into English Law. Any recommendations, either to take or not to take enforcement action, have been assessed to make sure that the decision is compatible with the Act. If there is a potential conflict, this will be highlighted in the individual report on the relevant item.

**Date of Despatch: Tuesday 6 July 2010**

**LICENSING COMMITTEE**

**DATE OF MEETING: 19 JULY 2010**

**TITLE OF REPORT: REVIEW OF STATEMENT OF LICENSING POLICY**

**Report of: Community Safety and Licensing Manager**

**Cabinet Member: Councillor Nippy Singh, People and Partnerships**

**1. PURPOSE OF REPORT**

To advise Members of the need to review the current Statement of Licensing Policy.

**2. OFFICER RECOMMENDATION**

That Members agree for the purposes of consultation the current Statement of Licensing Policy under the Licensing Act 2003 for the years 2010 to 2012.

**3. BACKGROUND**

3.1 The Council approved the Statement of Licensing Policy for the Licensing Act 2003 on 7 December 2004 following a 12 week consultation period.

3.2 It is considered that the approved policy adequately deals with the Licensing Objectives under the Licensing Act 2003, however, recent amendments to the act need to be reflected in the policy. The policy (appendix A) has been amended to reflect these changes.

3.3 The Statement of Licensing Policy has to be reviewed every three years under the Licensing Act 2003.

3.4 The current policy addresses the four licensing objectives for applicants to address when applying for a licence under the Licensing Act 2003. The layout and format of our policy is in line with the Government's recommended model for licensing policies. The four licensing objectives are:

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

3.5 The policy is used and frequently referred to in Licensing Hearings where there has been a representation to a hearing, in addressing noise and nuisance issues for example. The Responsible Authorities, as detailed in the Licensing Act 2003 and listed in Appendix C, uniformly and widely use the policy.

3.6 The policy, once its content has agreed by members, will be subject to a 12 week consultation period (appendix B), with the listed responsible bodies, the public and members of the licensed trade. Should there be a need for any substantial changes

following the statutory consultation, then this will need to be reported back to the Licensing Committee. Agreement of the Policy lies with Cabinet. .

**4. POLICY IMPLICATIONS**

Alterations to the policy following the consultation period may affect the implementation of the procedures applied to applications made under the Licensing Act 2003.

**5. FINANCIAL IMPLICATIONS**

There are no financial implications.

**6. RECOMMENDATION**

That Members agree the amended Statement of Licensing Policy under the Licensing Act 2003 for the years 2010 to 2012 for the purposes of consultation. However should there be any substantial changes following the statutory consultation, then Officers will report back to the Committee prior to final recommendation to Cabinet for adoption.

**CONTACT: D. King, Senior Licensing Officer**

**EXTENSION: 01252 774277**



**STATEMENT  
OF  
LICENSING POLICY**

**HART DISTRICT COUNCIL**  
**LICENSING ACT 2003**  
**SECTION 5**  
**Statement of Licensing Policy**  
**2008 - 2011**

<u>Paragraph</u>	<u>Subject</u>	<u>Page</u>
1.0	<b>INTRODUCTION</b>	3
2.0	<b>SCOPE AND PURPOSE</b>	3
3.0	<b>THE LICENSING OBJECTIVES</b>	7
4.0	<b>TYPES OF LICENCE</b>	13
5.0	<b>ENFORCEMENT</b>	23
6.0	<b>TABLES AND CHAIRS OUTSIDE PREMISES</b>	24
7.0	<b>APPENDIX I – PERSONAL LICENCE: RELEVANT OFFENCES</b>	25

# **HART DISTRICT COUNCIL**

## **LICENSING ACT 2003**

### **SECTION 5**

#### **Statement of Licensing Policy**

**2008 - 2011**

#### **1.0 INTRODUCTION**

- 1.1. This document is Hart District Council's Statement of Licensing Policy in respect of its Licensing functions for the three-year period from 7<sup>th</sup> January 2008.
- 1.2. It has been prepared in accordance with the provisions of the Licensing Act 2003 ("the Act") and the Guidance issued under Section 182 of the Act.

#### **2.0 SCOPE AND PURPOSE**

- 2.1. Hart District Council (HDC) is empowered as a Licensing Authority under the Licensing Act 2003 (herein referred to as "the Act"). As the Licensing Authority, HDC (herein referred to as "the Council") is responsible for licensing a range of activities under the Act.
- 2.2. The purpose of this document is to set out the policies and arrangements the Council will normally apply and consider in exercising its functions, and particularly when making decisions on any licence application made under the Act. The document addresses a number of key subject areas and identifies a range of issues that will be considered as part of any license application.
- 2.3. In the interest of speed and efficiency the Council, where possible, delegate licensing decisions and functions to officers of the Council. Where the matter to be decided is controversial in any way or the determination of the matter under delegated powers is precluded by law it will be decided by the Licensing committee (LC) (herein referred to as "the LC") or a Sub-Committee thereof. In all cases the administration and delegation of Licensing functions will be exercised in accordance to Table 5.2.
- 2.4. Hart District is a mixed rural and urban area situated in the County of Hampshire and has about 250 premises which are likely to be licensed. These premises include:
  - a. public houses and nightclubs
  - b. off licences and off sales from supermarkets

- c. businesses offering hot food between 11pm and 5am
  - d. hotels, guest houses, restaurants and other places that sell alcohol
  - e. private members clubs and social clubs
  - f. theatres and amateur dramatic groups
  - g. cinemas
  - h. premises where indoor sporting events take place
- 2.5. Licensed premises are an important part of the Hart District, contribute to the local economy, attract tourists and visitors, add to the vibrancy of towns and communities, and provide employment.
- 2.6. The purpose of licensing is to promote the licensing objectives on licensed premises, by qualifying clubs and at temporary events.
- 2.7. The four licensing objectives set out in the Act, covered in more detail later on, are:
- a. The prevention of crime and disorder;
  - b. Public safety;
  - c. The prevention of public nuisance; and
  - d. The protection of children from harm.
- 2.8. To achieve these objectives the Council will use its full range of powers and engage all relevant responsibilities including its planning controls, transport controls, crime and disorder policies and powers. The Council will enter appropriate partnership arrangements, and work closely with the police, fire authority, local businesses, community representatives and local people in meeting these objectives. Where appropriate, neighbouring authorities and parish councils will be consulted.
- 2.9. Licensing will endeavour to regulate licensing activities on licensed premises, qualifying clubs and temporary events, and conditions may be attached to various authorisations.
- 2.10. Licensable activities, identified under the Act, include:
- a. Retail sale of alcohol
  - b. Supply of hot food or drink from premises between 11pm and 5am
  - c. Supply of alcohol to club members
  - d. Provision of entertainment listed below (known as “regulated entertainment”) to the public or club members or with a view to profit:

- i. Film exhibitions
- ii. Performance of a play
- iii. Indoor sporting events
- iv. A boxing or wrestling entertainment
- v. Live music performances
- vi. Playing of recorded music
- vii. Dance performances
- viii. Provision of facilities for making music
- ix. Provision of facilities for dancing

2.11. The four main types of licence or authorisation are:

- a. Personal Licences – to license individuals for the retail sale or supply of alcohol
- b. Premises Licences – to licence premises for the retail sale of alcohol, the provision of regulated entertainment and/or late night refreshments
- c. Club Premises Certificates – to license the supply of alcohol or the provision of regulated entertainment in certain clubs
- d. Temporary Event Notices – to allow certain licensable activities on a temporary basis

2.12. The Council recognizes that the best means of promoting the licensing objectives is through the co-operation and partnership of local authorities, responsible authorities, local business, performers, local people and those involved in child protection. It has been drawn up following consultation with these groups.

2.13. The Policy will be kept under review and where any amendments are considered necessary these will only be made after further consultation has taken place in accordance with Section 5(3) of the Act. A complete review and re-adoption of the Policy will take place every three years. Proper weight shall be given to the views of all those consulted, including:

- a. The Chief Officer of Police for Hart District
- b. The Chief Officer of the Fire and Rescue Service for Hart District
- c. Bodies representing local holders of premises licences

- d. Bodies representing local holders of club premises certificates
- e. Bodies representing local holders of personal licences
- f. Bodies representing businesses and residents in the Councils area
- g. Any other bodies the Council deems appropriate
- h. Hampshire County Council Trading Standards

### **3.0 THE LICENSING OBJECTIVES**

- 3.1. When dealing with Licensing matters the Council will promote and have regard to the four licensing objectives set out in the Act. These are:
  - a. The prevention of crime and disorder;
  - b. Public safety;
  - c. The prevention of public nuisance; and
  - d. The protection of children from harm
- 3.2. To achieve these objectives the Council will use its full range of powers and engage all relevant responsibilities including its planning controls, transport controls, crime and disorder policies and powers. The Council will enter appropriate partnership arrangements, and work closely with the responsible authorities, local businesses, community representatives and local people in meeting these objectives. Where appropriate, neighbouring authorities and parish councils will be consulted.
- 3.3. **Prevention of Crime and Disorder**
- 3.4. Under the Act the Council has a duty to promote the licensing objectives, and, a further duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the District.
- 3.5. Licensed premises, especially those offering late night or early morning entertainment, alcohol and refreshment to large numbers of people can be a source of crime and disorder problems. The Council will expect the applicant to produce an operating schedule to satisfactorily address any anticipated problems of crime and disorder and indicate the measures that the applicant proposes to take to address these problems.
- 3.6. Such measures might include use of CCTV both within and outside the premises, metal detection and search facilities, measures to prevent the use or supply of illegal drugs, employment of licensed door supervisors and other appropriately trained staff and participation in an appropriate Watch Scheme or other body designed to ensure effective liaison with the local community. These suggested measures do not form an exhaustive list and the Council will expect applicants to propose measures appropriate to their particular business/premises.
- 3.7. The Council will consider attaching conditions to licences or certificates to deter and prevent crime and disorder where appropriate and necessary. These may include model conditions from the Department of Culture, Media and Sport's (DCMS) guidance under Section 182. When determining applications the Council will focus primarily on the impact of the activities taking place at the licensed premises will have on members of the public living, working or engaged in normal activity in the vicinity of the premises concerned.

- 3.8. The Council will expect licensed operators of venues likely to be affected by drugs to take all reasonable steps to prevent the taking and supply of such controlled substances on their premises. Details of the measures that will be taken to prevent such criminal activity should be included in the operating schedule.
- 3.9. The Fleet:SAFE Pubwatch scheme aims to improve the night time economy of Fleet and reduce violent crime and anti-social behavior by creating a safe environment. The concept provides a coordinated approach to improving Fleet Town Centre in the evening, by working in partnership with the licensed trade to improve the management of licensed premises, to promote the provision of safe drinking, reduce the number of serious assaults in the town centre and improve the physical environment of the town centre. The licensing authority actively supports these schemes and is keen to support the development of more schemes where there is demand.
- 3.10. The licensing authority, via the “Pubwatch” scheme, are suggesting a possible adoption of the national “Best Bar None Scheme” in Hart. This provides an incentive for the operators of licensed premises to improve their standards of operation to the level of a commonly agreed national benchmark and provides a much needed opportunity for licensees to demonstrate to official agencies how well they manage their own businesses. The licensing authority is keen to encourage all licensees operating pubs, bars and clubs to apply for the award.
- 3.11. **Public Safety**
- 3.12. In addition to the Council’s duty to promote the licensing objectives the Council has additional duties relating to public safety under other statutory provisions.
- 3.13. The Act covers a wide range of premises that require licensing including cinemas, concert halls, theatres, nightclubs, public houses, cafes, restaurants, fast food outlets and takeaways. Each type of premises presents a mixture of risks, with some being common to all premises and some being unique to specific operations.
- 3.14. The Council will expect operating schedules to satisfactorily address these risks and detail how the premises will be properly managed and maintained to ensure public safety at all times.
- 3.15. All licensees that have live performers, (including musicians, DJ’s and MC’s) will be expected to undertake a comprehensive risk assessment to ensure that crime, disorder and public safety matters are identified and assessed. In order to ensure that this is carried out, Hart District Council have established a Safety Advisory Group, a multi agency group who are in the process of setting minimum standards for applicants. This group includes; Police, Fire, Licensing, Health and Safety, Environmental Health and Traffic Management representatives.
- 3.16. **Prevention of Public Nuisance**
- 3.17. Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working in the

vicinity of the premises. Types of nuisance will vary but might include noise, vibration, light pollution and smells.

- 3.18. The Council will expect operating schedules to have regard to the nature of the area where the premises are situated, the type of premises concerned, the licensable activities to be provided, operational procedures and the needs of the local community. The Council will expect the schedule to demonstrate how such potential nuisances will be addressed.
- 3.19. The Council will expect the applicant to propose and take all reasonable steps to prevent disturbance to local residents by sound leakage, eg from music, patrons, air handling or other equipment.
- 3.20. If sound leakage is identified the Applicant must propose measures to deal with this. These might include keeping doors and windows closed and providing adequate mechanical ventilation, installing sound limiters to prevent sound exceeding the appropriate level and installing soundproofing measures to contain sound and vibration.
- 3.21. Other measures to prevent potential nuisance might include display of prominent notices at all exits asking patrons to leave quietly and respect local residents, arranging for taxis or private hire vehicles to take customers away from the premises and instigating queuing systems, imposing bans on patrons who regularly leave in a noisy fashion, and providing receptacles for refuse disposal e.g. bottles, food wrappings, on leaving the premises.
- 3.22. This is not an exhaustive list. The Council will give serious consideration to the revocation and / or review of a licence where persistent complaints of public nuisance are received.
- 3.23. The licensing authority will encourage the use of toughened glass-wear and polycarbonates where appropriate at licensed events or on licensed premises.
- 3.24. The licensing authority recognises that where gardens, tables and chairs are provided for smoking, drinking or eating outside, users can cause nuisance. Where outside facilities are provided, the licensing authority expects applicants to provide details in their application of:
  - The location of open air areas.
  - How the outside areas will be managed to prevent noise, smell or obstruction and nuisance to neighbours and the public at large.
- 3.25. **Protection of Children from Harm**
- 3.26. This is an important objective. The Council will not normally impose conditions prohibiting the admission of children to premises, believing this should remain a matter of discretion for the Licensed operator. However it will, where it considers necessary, impose conditions designed to protect children.

- 3.27. When considering applications for premises licences, the Council will take into account the history of a particular premises and the nature of the activities proposed to be provided there when considering whether any additional controls are necessary to protect children from harm. Additional controls may be necessary, for example where:
- a. members of staff have convictions for serving alcohol to minor or the premises has a reputation for under-age drinking
  - b. there has been a known association with drug taking or dealing
  - c. there is a strong element of gambling on the premises
  - d. entertainment of an adult or sexual nature is provided

Please note that the Licensing Authority can only attach conditions if they have received relevant representations, or if the applicant has outlined such matters within the operating schedule.

- 3.28. When deciding whether additional controls or conditions should be imposed the Council will consider each application on its individual merits.

- 3.29. In such cases, it may, in exceptional circumstances, be necessary to impose a complete prohibition on the admission of children, although this will happen only rarely. The type of controls the Council might impose may include:

- a. Limitations on the hours when children may be present
- b. General restrictions on the age of persons being allowed admission to the premises
- c. Limitations or exclusions when certain activities are taking place or requiring children to be accompanied by an adult
- d. Full exclusion of people under 18 from the premises when particular licensable activities are taking place

- 3.30. Where there is provision of entertainment specifically for children (e.g. a children's disco or pantomime) the Council will require the presence of sufficient adults to control the access and egress and ensure the safety of the children attending. The Licensed operator should consult the Hampshire County Council Area Child Protection Team to ascertain the appropriate adult coverage required for the particular premise and activity planned.

- 3.31. Where the exhibition of films is permitted the Council will expect the age restrictions of the British Board of Film Classification (BBFC) in respect of the films to be exhibited to be complied with. Only in exceptional cases will variations of this general rule be granted by the Council and then only with appropriate safeguards. In relation to specialist Film Festivals where it is desired to show films not classified by the BBFC the Council will, provided adequate notice has been given, classify the films concerned. In

order to achieve consistency and the protection of children the Council will use the guidelines published by the BBFC.

- 3.32. Licensees may decide to volunteer prohibitions or restrictions in their own operating schedules, because their own risk assessments have determined that the presence of children is undesirable or inappropriate. Where appropriate these voluntary prohibitions or restrictions will become conditions attaching to the licence and be enforceable as such.
- 3.33. The Council will consult with the Hampshire County Council Child Area Protection Team on any application that indicates there may be concerns over access of children.
- 3.34. The Act details a number of offences designed to protect children in licensed premises. The Council will work closely with the police and other appropriate agencies to ensure the appropriate enforcement of the law, especially relating to the sale or supply of alcohol to children.
- 3.35. **Other Legislation**
- 3.36. The Council recognizes that there should be a clear separation of the licensing systems and other controls, and licensing applications will be viewed independently of planning applications. To achieve this, close liaison will be maintained between the Licensing Committee and the Planning Committee ("LC" and "PC"). Please note any representations received from the planning authority must relate to the licensing objectives. The LC, where appropriate, will provide reports to the PC on the situation regarding licensed premises in the area including the general impact of alcohol-related crime and disorder.
- 3.37. Prior to submitting an application to the licensing authority the Applicant should ensure that there is appropriate planning permission for the hours and activities for which application is being made
- 3.38. Furthermore premises must comply with all other relevant legislation, for example:
  - a. Food Safety Act 1990 (Food Hygiene)
  - b. Health & Safety at Work etc Act 1974
  - c. Disability Discrimination Act 1995 and 2004
  - d. Building Regulations
- 3.39. The Council will seek to avoid duplication with other regulatory regimes as far as possible. However, if other regulations do not cover the unique circumstances that arise in connection with, for example, entertainment at specified premises then additional controls will be imposed.
- 3.40. In formulating its Licensing Policy the Council has had regard to guidance issued by the Department of Culture, Media and Sport ("DCMS") under Section 182 of the Act.

When determining applications the Council will have regard to both the guidelines issued by the Secretary of State for the DCMS and the Licensing Policy ("the Policy") as set out in this document.

- 3.41. In the interests of speed and efficiency the Council will, where possible, delegate licensing decisions and functions to officers. However, if the matter to be decided is controversial in any way or the determination of the matter under delegated powers is precluded by law then it will be decided by the Licensing Committee or a Sub-Committee.

## **4.0 TYPES OF LICENCE**

### **4.1. Personal Licences**

- 4.2. In general a personal licence must be granted to any applicant aged 18 or over who possesses a relevant qualification or is a person of a prescribed description as determined by the DCMS. A licence will not be granted to any applicant who has forfeited a personal application in the 5 year period ending with the date of the application
- 4.3. The police can oppose an application if an applicant has a relevant unspent conviction or a comparable foreign offence. For this purpose the Council requires that every application for a Personal Licence be accompanied by a 'Standard Disclosure Certificate' from the Criminal Records Bureau.
- 4.4. Applicants who meet the statutory criteria in terms of age, qualifications and non-forfeiture, as mentioned above, will be granted a licence. Applications that do not meet those criteria will be rejected.
- 4.5. If the Applicant meets the criteria mentioned at paragraph 4.4 above but has been convicted of a relevant offence or comparable foreign offence and the offence is unspent under the Rehabilitation of Offenders Act 1974 the police will be notified of this fact. If the chief officer of police is satisfied that the issue or renewal of the licence would undermine the crime prevention objective then the chief officer of police must serve an objection notice on the Council within 14 days.
- 4.6. Relevant offences are listed in Appendix I
- 4.7. If such an objection is received the application will be determined by a Licensing Sub-Committee in accordance with the Council's approved hearing procedures (See Procedural notes). There will be no need for a hearing if the applicant, Council and chief officer of police agree that a hearing is not necessary.
- 4.8. If a hearing is held, all representations made to the Licensing Sub-Committee which are relevant to the grant or refusal of the licence will be taken into consideration. These may include the nature of any offences, the time since their commission and any mitigating circumstances. The Council will reject the application if it considers it is necessary in the interests of crime prevention to do so and grant the application in every other case.
- 4.9. If there is a police objection on crime prevention grounds the normal course of events will be refusal unless there are exceptional and compelling reasons to grant the application.
- 4.10. The Council expects every application for a personal licence to be accompanied by a standard criminal record disclosure form from the Criminal Records Bureau. This will

assist the Council in determining whether the applicant has any relevant unspent convictions.

4.11. Applicants who originate from or who have lived in foreign jurisdiction will be required to provide a document from that jurisdiction equivalent to the criminal records disclosure form or swear a statutory declaration confirming that they have not been convicted outside of England and Wales of a relevant offence or equivalent offence. Applicants are be warned that the making of a false declaration for the purpose of obtaining a licence is a criminal offence for which they will be prosecuted.

#### 4.12. **Designated Premises Supervisors**

4.13. The sale and supply of alcohol carries a great responsibility and to ensure there will always be a specified person identifiable with a licensed premises the Council will require one personal licence holder declared as the Designated Premises Supervisor for each Premises Licence.

4.14. An application for designation of a Premises Supervisor must be accompanied by a form showing that he or she consents to taking on this role. The Council will amend the Premises Licence with the details of the Premises Supervisor.

4.15. The applicant must also notify the local Northeast Hampshire Constabulary Chief Inspector, at the address listed in appendix C, of the name of the declared Designated Premises Supervisor. The Police will be able to object to the declared person where they believe the appointment would be contrary to the crime prevention objective.

#### 4.16. **Premises Licences and Club Premises Certificates – Applications**

4.17. A premises licence is required for any premises that is used for one or more licensable activity as defined at paragraph 2.6 above. Those who may apply for licences are defined in Section 16 of the Act. Applications for licences must be accompanied by the appropriate fee, a plan of the premises and an operating schedule in the form that is prescribed by the Secretary of State. Fee levels and prescribed forms may be viewed on the websites of the DCMS and the Council, or can be obtained from the Council's Licensing section.

4.18. The requirements in relation to applications for premises licences are set out in Section 17 of the Act and the Council will not be able to consider applications which do not comply with those requirements.

4.19. The Council will consider applications in relation to its own premises and will treat them in an impartial manner.

#### 4.20. **Operating Schedules**

4.21. The operating schedule forms an important part of the licence application and holders of premises licences will be expected to comply with the operating schedule once a licence has been granted. Applicants will be expected to demonstrate how they intend to be good neighbours to residents and other business interests in the area. In addition,

applicants will be expected to propose practical measures to prevent disturbance to local residents and to indicate what action will be taken to prevent or reduce noise emanating from the premises.

- 4.22. The Council will expect the operating schedule to indicate the arrangements which will be made for selling alcohol. Schedules will need to address how, as far as possible, purchases will not be made by customers who are under age, or who appear to be likely to consume alcohol in the vicinity of the premises contrary to any legal restrictions imposed in respect of that area.
- 4.23. Where alcohol is sold at a checkout in conjunction with other general groceries, the operating schedule should make clear the training arrangements for staff at the checkout to ensure they are fully conversant with the licensing requirements.
- 4.24. The operating schedule should also detail what action would be taken to prevent the sale of alcohol to any person who is intoxicated or acting in a disorderly manner.
- 4.25. Operating Schedules should indicate measures that will be put in place to deal with any nuisance that may occur as a result of a licence being granted.
- 4.26. Furthermore, the Council will expect the construction of premises to comply with all the requirements of health and safety at work, building regulations, fire safety legislation and any other legislation that may be relevant. Underpinning all aspects of the operating schedule should be the licensing objectives and applicants should put forward positive measures by which these objectives might be promoted.
- 4.27. Council officers will discuss proposed conditions with applicants in advance with a view to achieving a mutually agreeable level of protection to the public and fulfillment of the licensing objectives.
- 4.28. **Licence Conditions**
- 4.29. Any conditions which are attached to premises licences will focus on matters which are within the control of individual licensees. This means that attention will centre on the premises themselves and the immediate vicinity surrounding those premises. The licensing legislation will not be used as a mechanism for the general control of anti-social behaviour once they are away from the premises and thus beyond the direct control of the licensee.
- 4.30. Conditions will only be imposed to the extent the Council considers them necessary to ensure that the licensing objectives are fulfilled. Where appropriate the Council will select conditions taken from the guidance under Section 182 of the Act. The Council is aware that there is substantial protection provided by other statutory provisions and conditions will not be imposed that duplicate this protection.
- 4.31. Council officers will discuss proposed conditions with applicants in advance with a view to achieving a mutually agreeable level of protection to the public and fulfilment of the licensing objectives.

**4.32. Operating Hours**

- 4.33. When determining applications the Council will have regard to guidance issued by the DCMS. In particular, account will be taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community as a whole. If representations are made concerning the potential for limited disturbance in a particular neighbourhood, the Council's consideration will be balanced against the wider benefits to the community.
- 4.34. The Council will therefore endeavour to strike a fair balance between the needs of licence holders, patrons of the licensed premises and the effect those licensed premises will have on local residents particularly with regard to noise and disturbance.
- 4.35. Where an applicant wishes to apply to extend their current opening hours the Council will expect their operating schedule to detail the measures to be taken to ensure the licensing objectives are addressed. The Council will consider seriously representations made to limit the hours of operation of premises situated in mainly residential areas.
- 4.36. Where voluntary arrangements cannot be obtained to stagger closing times or such arrangements are unsuccessful and problems of nuisance for local residents or businesses arise the Council will consider whether it is appropriate to limit the hours of individual licensed premises. This will be particularly the case in noise sensitive areas.
- 4.37. Longer opening hours are considered to be acceptable, in principle, for premises in commercial areas with high levels of public transport accessibility. However, in all cases, the granting of a licence will depend on impact of an activity, particularly on local residents. It is necessary to consider, amongst other things, the level of impact that could arise from noise and vibration, litter, parking, people coming and going, crowds and queuing; and whether any impact is particularly unacceptable late at night.
- 4.38. The Council will consider every application for extended hours on its merits. In particular it will take the following into consideration:
- a. Whether the premises is located in a predominantly commercial areas,
  - b. Whether there is an appropriate amount of car parking, readily accessible to the premises, and in places where vehicular movement will not cause demonstrable adverse impact upon local residents
  - c. Whether the operating schedule agreed with Council officers indicates that the applicant is taking appropriate steps to comply with the licensing objective of preventing public nuisance
  - d. Whether the licensed activity, particularly if located in areas of the highest levels of recorded crime (as identified in the Crime and Disorder Audit), may result in a reduction in crime and anti-social behaviour

- e. Whether the licensed activity, particularly if located in areas of the highest levels of recorded crime (as identified in the Crime and Disorder Audit), may result in a heightened level of crime and anti-social behaviour
- f. Whether the licensed activities would not be likely to cause adverse impact especially on local residents, and that, if there is a potential to cause adverse impact, appropriate measures will be put in place to prevent it
- g. Whether there will not be any increase in the cumulative adverse impact from these or similar activities, on an adjacent residential area
- h. Whether there is a high level of public transport accessibility to and from the premises at the appropriate times
- i. Whether the activity will not be likely to lead to a demonstrable increase in car parking demand in surrounding residential streets.

**4.39. Consideration of the impact of licensed activities**

4.40. When considering whether any licensed activity should be permitted, the Council will assess whether the activity is likely to cause unacceptable adverse impact on others; in particular, local residents. In presenting applications the Applicant should consider these matters including:

- a. The type of use, the number of customers likely to attend the premises and the genre of customers at the time of the application;
- b. The proposed hours of operation;
- c. The level of public transport accessibility for customers either arriving or leaving the premises and the likely means of public or private transport that will be used by the customers;
- d. The means of access to the premises which have customer entrances and exits on the principal pedestrian routes;
- e. The level of likely car parking demand on surrounding residential streets and its effect on local residents, in comparison with the existing situation; and the effect on residential parking and the movement of priority traffic;
- f. The cumulative impact of licensed premises in an area;
- g. The scope for mitigating any impact;
- h. How often the activity occurs.

4.41. In considering any application, which is already licensed the Council will take into account evidence of:

- a. past demonstrable adverse impact on local residents,

- b. demonstrably unacceptable levels of car parking in surrounding residential streets, and
  - c. appropriate measures put into effect by the Applicant to mitigate against adverse impacts,
  - d. where measures previously highlighted have not yet been acted upon, a licence may be granted for a limited time only
- 4.42. The main impact of customers arriving, queuing and leaving should be confined to principal pedestrian routes as far as possible. For instance, it would not be appropriate for large numbers of patrons to exit into a residential area as opposed to directly to and from nearby transport services.
- 4.43. The aim is to achieve a balanced approach to these various conflicting issues.
- 4.44. The Council appreciates that the licence premise operator will face difficulties preventing anti-social behaviour beyond the close vicinity of the licensed premises.
- 4.45. In undertaking its licensing function, the licensing authority is also bound by other legislation, including :
- a. Crime and Disorder Act 1998 - s17 requires the Council to do all that it reasonably can to prevent crime and disorder in the District
  - b. Human Rights Act 1998 - this gives effect to the European Convention of Human Rights makes it unlawful for the Council to act in a way that is incompatible with a Convention right.
  - c. Environmental Protection Act 1990
  - d. Health and Safety at Work Act 1974
  - e. Anti - Social Behaviour Act 2003
- 4.46. Additionally, the Council will consider applications with reference to other adopted policies as may be relevant such as the Local Plan.
- 4.47. **Cumulative Effect**
- 4.48. In determining an application the Council will take into account, in the interests of public safety and the avoidance of nuisance, crime and disorder, the cumulative effect that a concentration of premises in one area may have. Such a concentration of licensed premises can attract customers to the area that results in an impact on the surrounding area beyond the control of the individual Licensees.

- 4.49. The Council will consider every application on its individual merits and may impose conditions to address problems of accumulative effect.
- 4.50. The Council will consider the adoption of a special policy refusing new premises licences or club premises certificates in areas where it believes the granting of anymore will undermine the licensing objectives.
- 4.51. Due to the lack of large urban areas in the District, the Council does not, at this stage, anticipate that such a policy will be necessary. However, if the Council becomes aware that cumulative impact is a problem it will consider adopting a special policy. Before doing so it will take the following steps:
- a. identification of serious and chronic concern from a responsible authority or representatives of local residents about nuisance, crime or disorder;
  - b. consideration of whether it can be demonstrated that the nuisance, crime or disorder arises as a result of customers from licensed premises , and identification of the area from which the problems arise and the boundaries of that area;
  - c. assessment of the causes of those problems;
- 4.52. The Council will not use such policies solely:
- a. As grounds for removing a licence when representations are received about problems with existing licensed premises, or;
  - b. To refuse variations to a licence, except where the variations are directly relevant to the policy, for example, where the application is for a significant increase in the capacity limits.
- 4.53. The Council recognises that the diversity of premises selling alcohol, serving food and providing entertainment covers a large range of contrasting styles and characteristics and will have full regard to those differences and the differing impact these will have on the local community. It therefore follows that, even if a special policy has been adopted in relation to a particular area there may be circumstances where a licence will be approved as it is unlikely to add significantly to the problem.
- 4.54. **Sex Related Activities**
- 4.55. Where the activities proposed under the licence include those of a sex related nature (e.g. topless waitresses, striptease, table dancing) the Council would take into account the increased risk to the licensing objectives. For the sake of convenience the term “striptease” in this part of the policy should be taken to refer to any entertainment or service involving exposure of private parts or the sexual stimulation of patrons.
- 4.56. The Council will not normally grant licences which involve a sex related element to take place in premises near schools, churches, hospitals, youth clubs or other place where significant numbers of children are likely to attend.

- 4.57. Where such licences are granted it will impose conditions designed to ensure that children are not admitted to and cannot witness these activities and to prevent crime and disorder problems. For example, the area proposed for striptease shall be:
- a. in a position where the performance cannot be seen from the street;
  - b. in a designated area of the premises with segregation from the audience;
  - c. in a position where the performers will have direct access to the dressing room without passing through or in close proximity to the audience.

- 4.58. Whilst striptease entertainment is taking place no person under the age of 18 shall be on the licensed premises and a clear notice shall be displayed at each entrance to the premises in a prominent position, so that it can be easily read by persons about to enter the premises, in the following terms:

**ADULTS ONLY**

**NO PERSON UNDER 18 WILL BE ADMITTED**

- 4.59. To prevent children seeing unsuitable advertisements the Council will seek to attach a condition banning all external advertising of the sex related activity at the premises or nearby.
- 4.60. In considering the granting of applications involving striptease the Council will also have regard to the increased risk of nuisance to nearby residents and will consider rejecting the application or attaching appropriate conditions.
- 4.61. **Other Controls**
- 4.62. Other mechanisms are available to address bad behaviour in the areas around licensed premises. The Council will consider the following:
- a. Planning controls
  - b. Positive measures to create a safe and clean town centre environment in partnerships with local businesses, transport operators and other departments of a Council
  - c. Powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly
  - d. Police enforcement of the normal law concerning disorder and anti-social behaviour, including the issue of fixed penalty notices
  - e. The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk.
  - f. The confiscation of alcohol from adults and children in designated areas

- g. Police powers to close down instantly for up to 24 hours any licensed premises or temporary events on the grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises
- h. The power of the police, other responsible authority or a local resident or business to seek a review (possible revocation) of the licence or certificate in question
- i. Powers available to Environmental Health Officers under the Antisocial Behaviour Act 2003

**4.63. Other strategies**

4.64. In determining a licence application the overriding principle adopted by the Council will be that each application will be determined on its individual merits.

4.65. It is the policy of the Council that when considering conditions there should be openness, transparency and reasonableness. Consequently officers will seek to discuss proposed conditions in advance with the applicant with the aim of achieving a mutually agreeable level of protection to the public and fulfilment of the licensing objectives. When attaching conditions the Council will also be aware of the need to avoid measures that might deter live music, dancing or theatre by imposing indirect costs of a substantial nature.

4.66. The Council acknowledges the advice received from the DCMS that the views of vocal minorities should not be allowed to predominate over the general interests of the community.

4.67. The Council, where possible, will facilitate mediation through:

- a. Identification of potential issues for other relevant statutory agencies particularly regarding the safety and amenity of local residents
- b. Offering mediation forums to identify, discuss and where possible resolve potential issues between applicants, relevant statutory agencies and/or local residents and interested groups
- c. Negotiation, if possible, of potential conditions to reflect resolutions of mediation forums.

**4.68. Provisional Statement**

4.69. Where premises are being proposed, altered or constructed applicants will need to apply for a Provisional Statement, which will be dealt with in the same way as a Premises Licence

**4.70. Temporary Events Notices**

- 4.71. Where there is an event which includes regulated entertainment and / or sale of alcohol for less than 500 attendees and for a period of less than 96 hours, a Temporary Events Notice (T.E.N.) will need to be served on the Council at least ten working days beforehand. The premises user must also serve a copy of the notice on the local Chief of Police at least ten days before the day the event starts.
- 4.72. Further restrictions are as follows:
- a. The number of times a T.E.N. may be given in a calendar year is
    - i. 50 for a personal licence holder and 5 for any other person
    - ii. 12 in respect of any particular premises
  - b. The maximum aggregate duration of the periods covered by the T.E.N. at any individual premises is 15 days
- 4.73. There is no requirement for an authorisation from the Council, but it will acknowledge receipt and enter the event in a register. It does not relieve the premises from the requirements of planning legislation.
- 4.74. The Police can issue an objection notice within 48 hours of being notified; this can be later withdrawn however. On receipt of a relevant objection from the Police, the Council will hold a hearing and give a decision not less than 24 hours before the event is due to take place.
- 4.75. It is in the applicant's interests to serve a T.E.N. at the earliest opportunity. Applicants are also reminded of the immediate closure powers available to the police and others (see 4.55 above).

## 5.0 ENFORCEMENT

- 5.1. The Council recognises the importance of enforcement to the overall effectiveness of the policy and is committed to continue to undertake enforcement measures and proceedings, in partnership with the Police and other statutory agencies, against unlicensed premises and breaches of licence conditions.
- 5.2. The Council has adopted new enforcement policies which ensure the principles of “better Regulation” and will continue to review procedures and develop ways to target high-risk licensed premises and ensure compliance with the licensing objectives. The Licensing Authority has established protocols with the local Police, Fire and Rescue Services, Trading Standards and Community Safety on enforcement. All enforcement is conducted in accordance with the Enforcement Concordat of the Council.
- 5.3. **Administration and Delegation of Functions**
- 5.4. Decisions on all licensing matters will be taken in accordance with an approved scheme of delegation. Where legal and appropriate the Council will delegate decisions at officer level to speed the process. A proposed scheme of delegation is as follows:

<b>Matter</b>	<b>Licensing Committee</b>	<b>Licensing Sub-Committee</b>	<b>Council Officers</b>
Application for personal licence		If police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If relevant representation made	If no relevant representation made
Application for provisional statement		If relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If police objection	All other cases
Request to be removed as designated premises supervisor			All cases

Application for transfer of premises licence		If police objection	All other cases
Applications for interim authorities		If police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a police objection to a temporary event notice		All cases	

## 6.0 Tables and Chairs outside Premises

- 6.1. The placement of tables and chairs on the public highway (pavement or roadway) will need the prior consent of Hampshire County Council Highways Authority.
- 6.2. **Policy**
- 6.3. The Council will normally only allow encroachment onto the public highway during operating hours from dawn to dusk. Outside these hours the table and chairs should be removed.
- 6.4. If these hours lead to adverse impacts to the safety and amenity of local residents they may be reduced on renewal unless appropriate measures have been agreed with the Council to mitigate these impacts.
- 6.5. The requirements of the Local Authority (Alcohol Consumption in Public Places) Regulations 2001, which restricts alcohol consumption in designated areas, will need to be considered in relation to the provision of tables and chairs on the public highway.

## **7.0 APPENDIX I – PERSONAL LICENCE: RELEVANT OFFENCES**

### **7.1. Schedule 4, Licensing Act 2003**

- 1 An offence under this Act.
- 2 An offence under any of the following enactments-
  - (a) Schedule 12 to the London Government Act 1963 (c. 33) (public entertainment licensing);
  - (b) the Licensing Act 1964 (c. 26);
  - (c) the Private Places of Entertainment (Licensing) Act 1967 (c. 19);
  - (d) section 13 of the Theatres Act 1968 (c. 54);
  - (e) the Late Night Refreshment Houses Act 1969 (c. 53);
  - (f) section 6 of, or Schedule 1 to, the Local Government (Miscellaneous Provisions) Act 1982 (c. 30);
  - (g) the Licensing (Occasional Permissions) Act 1983 (c. 24);
  - (h) the Cinemas Act 1985 (c. 13);
  - (i) the London Local Authorities Act 1990 (c. vii).
- 3 An offence under the Firearms Act 1968 (c. 27).
- 4 An offence under section 1 of the Trade Descriptions Act 1968 (c. 29) (false trade description of goods) in circumstances where the goods in question are or include alcohol.
- 5 An offence under any of the following provisions of the Theft Act 1968 (c. 60)-
  - (a) section 1 (theft);
  - (b) section 8 (robbery);
  - (c) section 9 (burglary);
  - (d) section 10 (aggravated burglary);
  - (e) section 11 (removal of articles from places open to the public);
  - (f) section 12A (aggravated vehicle-taking), in circumstances where subsection (2)(b) of that section applies and the accident caused the death of any person;
  - (g) section 13 (abstracting of electricity);
  - (h) section 15 (obtaining property by deception);
  - (i) section 15A (obtaining a money transfer by deception);
  - (j) section 16 (obtaining pecuniary advantage by deception);
  - (k) section 17 (false accounting);
  - (l) section 19 (false statements by company directors etc.);
  - (m) section 20 (suppression, etc. of documents);
  - (n) section 21 (blackmail);
  - (o) section 22 (handling stolen goods);
  - (p) section 24A (dishonestly retaining a wrongful credit);
  - (q) section 25 (going equipped for stealing etc.).
- 6 An offence under section 7(2) of the Gaming Act 1968 (c. 65) (allowing child to take part in gaming on premises licensed for the sale of alcohol).
- 7 An offence under any of the following provisions of the Misuse of Drugs Act 1971 (c. 38)-
  - (a) section 4(2) (production of a controlled drug);
  - (b) section 4(3) (supply of a controlled drug);
  - (c) section 5(3) (possession of a controlled drug with intent to supply);

- (d) section 8 (permitting activities to take place on premises).
- 8 An offence under either of the following provisions of the Theft Act 1978 (c. 31)-  
 (a) section 1 (obtaining services by deception);  
 (b) section 2 (evasion of liability by deception).
- 9 An offence under either of the following provisions of the Customs and Excise Management Act 1979 (c. 2)-  
 (a) section 170 (disregarding subsection (1)(a)) (fraudulent evasion of duty etc.);  
 (b) section 170B (taking preparatory steps for evasion of duty).
- 10 An offence under either of the following provisions of the Tobacco Products Duty Act 1979 (c. 7)-  
 (a) section 8G (possession and sale of unmarked tobacco);  
 (b) section 8H (use of premises for sale of unmarked tobacco).
- 11 An offence under the Forgery and Counterfeiting Act 1981 (c. 45) (other than an offence under section 18 or 19 of that Act).
- 12 An offence under the Firearms (Amendment) Act 1988 (c. 45).
- 13 An offence under any of the following provisions of the Copyright, Designs and Patents Act 1988 (c. 48)-  
 (a) section 107(1)(d)(iii) (public exhibition in the course of a business of article infringing copyright);  
 (b) section 107(3) (infringement of copyright by public performance of work etc.);  
 (c) section 198(2) (broadcast etc. of recording of performance made without sufficient consent);  
 (d) section 297(1) (fraudulent reception of transmission);  
 (e) section 297A(1) (supply etc. of unauthorised decoder).
- 14 An offence under any of the following provisions of the Road Traffic Act 1988 (c. 52)-  
 (a) section 3A (causing death by careless driving while under the influence of drink or drugs);  
 (b) section 4 (driving etc. a vehicle when under the influence of drink or drugs);  
 (c) section 5 (driving etc. a vehicle with alcohol concentration above prescribed limit).
- 15 An offence under either of the following provisions of the Food Safety Act 1990 (c. 16) in circumstances where the food in question is or includes alcohol-  
 (a) section 14 (selling food or drink not of the nature, substance or quality demanded);  
 (b) section 15 (falsely describing or presenting food or drink).
- 16 An offence under section 92(1) or (2) of the Trade Marks Act 1994 (c. 26) (unauthorised use of trade mark, etc. in relation to goods) in circumstances where the goods in question are or include alcohol.
- 17 An offence under the Firearms (Amendment) Act 1997 (c. 5).
- 18 A sexual offence, within the meaning of section 161(2) of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6).
- 19 A violent offence, within the meaning of section 161(3) of that Act.
- 20 An offence under section 3 of the Private Security Industry Act 2001 (c. 12) (engaging in certain activities relating to security without a licence).



**Licensing Policy Review**

**July 2010**

**Public Consultation**

In January 2005 Hart District Council issued its first three year licensing policy. The policy explains how the council, as a licensing authority, promotes its licensing objectives whilst carrying out its functions under the Licensing Act 2003.

The current policy expires in 2010 and, although the general principles are still relevant, the licensing authority would like to make some amendments to reflect current thinking and practice.

The following new or amended policy statements are proposed:

#### **Risk assessments for significant events**

All licensees that have live performers (which includes musicians, DJs, MCs or other artists) will be expected to undertake a comprehensive risk assessment to ensure that crime, disorder and public safety matters are identified and addressed. In order to ensure that this is carried out, Hart District Council have established a Safety Advisory Group, a multi agency group who are in the process of setting minimum standards for applicants. This group includes; Police, Fire, Licensing, Health and Safety, Environmental Health and Traffic Management representatives.

#### **Use of toughened glass and polycarbonates**

The licensing authority will encourage the use of toughened glassware and polycarbonate where appropriate at licensed events or on licensed premises.

#### **Best Bar None**

The licensing authority, via the 'Pub Watch' Scheme, are looking to support the Best Bar None Award scheme and recognise that there are many licensed premises in Hart operating to the Best Bar None standard. The licensing authority is keen to encourage all licensees operating bars, clubs and pubs to apply for the award.

#### **Smoking, drinking and eating outside**

The licensing authority recognises that where gardens, tables and chairs are provided for smoking, drinking or eating outside, users can cause nuisance.

Where outside facilities are provided the licensing authority expects applicants to provide details in their application of:

- the location of open air areas
- how the outside areas will be managed to prevent noise, smell, or obstruction and nuisance to neighbours and the public.

#### **'Pub watch' scheme**

The district-wide 'pub watch' scheme encourages its members to work together to promote the licensing objectives in their premises by providing a forum for sharing information, disseminating best practice and meeting with representatives of the licensing authority, the police and other responsible authorities. The licensing authority actively supports these schemes and is keen to support the development of more schemes where there is a demand.

### **We want to hear your views**

1. What are your views on the above suggestions?
2. Do you think the approach in the 2005-2008 licensing policy is still relevant?
3. What other suggestions do you have for the licensing authority's policy to further promote the licensing objectives for
  - ensuring public safety?
  - preventing public nuisance?
  - reducing crime and disorder?
  - protecting children from harm?
4. Do you think the policy strikes the right balance between addressing the needs of residents and neighbours with those of the licensees?

### **How you can have your say**

In writing: Licensing Team  
Hart District Council  
Civic Offices  
Harlington Way  
Fleet  
Hants  
GU51 4AE  
Email: [licensing@hart.gov.uk](mailto:licensing@hart.gov.uk)

For more information telephone David King (01252 774277) or Angela Semowo (01252 774496)

The Licensing Policy 2008-2011 can be downloaded from the council's website [www.hart.gov.uk](http://www.hart.gov.uk). The draft policy for 2010-2013 will be available on the website from 30<sup>th</sup> October 2007.

**The consultation period closes on 16 November 2007**

**Have your say!**

Hart District Council - Public Consultation

Review of the Licensing Policy 2010

1. What are your views on the proposed changes?
2. Do you think the approach in the 2005-2008 licensing policy is still relevant?
3. What other suggestions do you have for the licensing authority's policy statement to further promote the licensing objectives for
a. Ensuring public safety?
b. Preventing public nuisance?
c. Reducing crime and disorder?
d. Protecting children from harm?
4. Do you think the policy strikes the right balance between addressing the needs of residents and neighbours with those of the licensees?

**LICENSING COMMITTEE**

**DATE:** 19 JULY 2010

**TITLE OF REPORT:** REVIEW OF HACKNEY CARRIAGE AND PRIVATE VEHICLE LICENSING STATEMENT OF POLICY

**Report of:** Community Safety and Licensing Manager

**Cabinet Member:** Councillor Nippy Singh, People and Partnerships

**1. PURPOSE OF REPORT**

To advise Members of the need to review 6.3 of the Hackney Carriage and Private Hire Licensing Statement of Policy (Appendix A).

**2. OFFICER RECOMMENDATION**

That Members agree the policy statement in relation to the age of licensable vehicles to ensure transparency of decision making.

**3. BACKGROUND**

- 3.1 The Council currently has a statement of policy in relation to Hackney Carriage and Private Hire Licensing (March 2009) which includes guidance for applicants.
- 3.2 It is considered that the policy adequately deals with the Licensing Objectives, however, a recent vehicle licence application has identified an issue in relation to the age of Hackney Carriage vehicles. The policy (6.3) currently states that a Hackney Carriage vehicle must be three years old or under from the date of first registration in order to be licensed by this authority and that this is without exception.
- 3.3 It has come to notice that discretion has been being exercised in relation to the licensing of hackney carriage vehicles over the age of three years, subject to a vehicle inspection by a Hart Licensing Officer.
- 3.4 Obviously, the policy states that there will be no exceptions and the policy should not be deviated from. If the Members feel that discretion is appropriate regarding the age of licensable vehicles for hackney carriage work, then the policy needs to be amended to reflect this.
- 3.5 The policy is used and frequently referred to in Licensing Hearings where there has been a representation to a hearing, in addressing taxi licence issues and needs to be transparent and equal in its dealings.

**4. POLICY IMPLICATIONS**

Failing to amend/adhere to the policy could lead to complaints from applicants in relation to the decision making process of Hart District Council Officers.

**5. FINANCIAL IMPLICATIONS**

There are no financial implications.

**6. RECOMMENDATION**

That Members reach agreement regarding section 6.3 of the policy and that the decision made is then implemented by Hart Officers.

**CONTACT: K. Burbidge, Licensing Officer**

**EXTENSION: 01252 774291**



**DRAFT v.3**

**HACKNEY CARRIAGE  
and  
PRIVATE HIRE LICENSING**

**Statement of Policy, Including Guidance Notes and  
Conditions for Hackney Carriage and Private Hire  
Owners, Operators, and Drivers  
March 2009**

**HART DISTRICT COUNCIL**  
**POLICY STATEMENT**  
**MARCH 2009**  
**HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING**

<i>Paragraph</i>		<i>Page</i>
1	<b>The Purpose of this Document</b>	3
2	Legitimate Aims	3
3	Achieving Legitimate Aims	3
4	<b>Licensing</b>	3
5	<b>Enforcement</b>	4
6	<b>Detailed Considerations</b>	5
6.1 – 6.2	Purpose Built Vehicles	5
6.3 – 6.5	Vehicle Age Policies	5
6.6 – 6.8	Fees and Charges	5
6.9	Disabled Access	6
6.10	Legislative Changes	6
6.11 – 6.12	Different Treatment of Hackney Carriages and Private Hire Vehicles	6
6.13 – 6.15	Vehicle Safety Checks	6
6.16	Insurance Requirements	7
6.17	Duration of Drivers Licences	7
6.18	Taxi Rank Provision	7
6.19 – 6.20	Knowledge Test	7
6.21	Communication Skills	7
6.22 – 6.25	Medicals	8
6.26	Driving Standards Agency	8
7.1 – 7.2	<b>Administration Procedures</b>	8
8.1	<b>Appeals Procedures</b>	9
<b>APPENDIX 1</b>	LICENSING CONDITIONS FOR THE OPERATION OF HACKNEY CARRIAGE'S, PRIVATE HIRE VEHICLES, MINI – BUSES AND STRETCHED LIMOUSINES	10
<b>APPENDIX 2</b>	RELEVANCE OF CRIMINAL CONVICTIONS	36

## **1. The Purpose of this Document**

- 1.1 To set out how Hart District Council intends to carry out the licensing and control of the Hackney Carriage and Private Hire trade within its district.

## **2. Legitimate Aims**

- 2.1 The aim of the Council is to ensure the safety of the public. The public should be able to use the local services and have confidence that they will reach the end of their journey safely. Safety is paramount to all our decisions.
- 2.2 Other legitimate aims are:
- a) The prevention of public nuisance; and
  - b) The prevention of crime and disorder.

## **3. Achieving the Legitimate Aims**

- 3.1 The following legislation allows Hart District Council to fulfil its Legitimate Aims in this respect:
- a) Section 37 of the Town Police Clauses Act 1847
  - b) Section 45 of the Local Government (Miscellaneous Provisions) Act 1976
- 3.2 In addition, bylaws which apply to the district of Hart have been made under Section 68 of the Town Police Clauses Act 1847 and Section 171 of the Public Health Act 1875

## **4. Licensing**

- 4.1 Operators, Drivers and Vehicles suitability will be checked before being licensed and if necessary conditions may be added to achieve the Legitimate Aims.

## **5. Enforcement**

5.1 The Council shall ensure that there is enough staff time to check up on compliance with Licence Conditions so that the Legitimate Aims of the Council (see paragraph 3) are achieved.

5.2 Enforcement will be carried out in accordance with the Council's Enforcement Policy, which in turn adopts the principles of the Cabinet Office's Enforcement Concordat of 1998, to which Hart is a signatory.

5.3 The Council shall carry out enforcement duties openly and impartially. The Council recognise that the need for enforcement action to be taken against those who deliberately flout or ignore statutory requirements has to be balanced against a lighter touch for those that do comply with the burdens imposed upon them.

5.4 All Licence holders will:

- a) receive clear explanations of what they need to do;
- b) be given opportunities to resolve differences before enforcement action is taken;
- c) be told how to appeal against any decisions; and
- d) be told the reasons for particular decisions.

5.5 The following people will do the job:

- a) Officers employed to deal with the licensing process and enforcement; and
- b) A Licensing Panel of three elected Members who will hear appeals against officers' decisions and decide on the outcome.

### The Involvement of other Parties in the process

5.6 We will consult with interested parties where appropriate on any issue encompassed by this policy. Interested Parties include the "taxi trade", the Police, Highways Department and others as thought appropriate.

5.7 This consultation will be an ongoing process and will help form our future decisions.

## **6. Detailed Considerations**

### Purpose built vehicles

6.1 At present in Hart purpose-built vehicles i.e. London style taxis, are **not** compulsory.

6.2 Where purpose-built vehicles are licensed, a different vehicle age policy will be considered because of their construction and design. This is detailed at paragraph 6.3.

### Vehicle Age policies

6.3 Any new application or replacement vehicle for a hackney carriage or private hire vehicle will **ONLY** be considered if the vehicle is less than three years old from the date of first registration for non purpose built vehicles, or less than four years from the date of first registration for a purpose built vehicle. The vehicle must also have a full service history. The vehicle may only continue to be licensed until it is seven years from its date of first registration for non purpose built vehicles and ten years from the date of registration for a purpose built vehicle.

6.4 The age of imported vehicles will be judged from the date of manufacture.

6.5 The exception to the above being Private Hire vehicles in exceptional condition used exclusively for executive type chauffer work. 'Exceptional condition' is defined as a vehicle which is without damage or wear to the interior and the exterior. The age limit for new application or replacement vehicle will be less than five years old from the date of manufacture. The vehicle may continue to be licensed until eight years from its date of manufacture.

### Fees and charges

6.6 Fees and charges are set with the intention of covering the Council's costs in administering the whole service. They will generally be reviewed as part of the normal budget process and come into force from the 1<sup>st</sup> April each year. Any additional increases required mid year will only be introduced following full consultation with the trade.

6.7 If the demands on the service make it necessary, then fees may be amended during the financial year.

6.8 All amendments to fees and charges will have to be approved by the Licensing Committee.

#### Disabled access

6.9 Currently there is no known date for the introduction of legislation concerning minimum requirements for disabled access. We will inform interested parties at the earliest opportunity when details are known so as to enable policy changes to be made and give time for planned vehicle replacements as necessary.

#### Legislative changes

6.10 Full consultation with the trade will take place concerning any other legislative changes imposed by Government.

#### Different treatment of Hackney Carriages and Private Hire Vehicles

6.11 The two types of vehicle provide different services for the public and certain differences in treatment can be appropriate. However the Legitimate Aims of Council remain the same.

6.12 Separate conditions (attached at Appendix One) have been produced for the two types of vehicle.

#### Vehicle Safety checks

6.13 All vehicles are required to be examined at an MOT issuing garage and comply with the standard for the Hart District Council inspection report. This is required to ensure the vehicle is safe and in a road worthy condition to operate as a Hackney Carriage or Private Hire vehicle. The annual MOT test is not sufficiently detailed for this purpose.

6.14 An annual Hackney Carriage/Private Hire Hart District Council vehicle inspection report test will therefore be required in addition to the annual MOT test. Any vehicle aged seven or more years from the date of first registration which continues to be licensed shall require two Hart District Council examinations a year. This test will be carried out by an MOT registered garage within the Hart District Council area.

- 6.15 Vehicles over seven years may also require a full independent vehicle examination carried out by the RAC or AA.

#### Insurance requirements

- 6.16 Part VI Basic Road Traffic Act 1998 is the minimum requirement but fully comprehensive insurance is recommended. Insurance cover documentation shall clearly state that cover is provided for the carriage of passengers for hire or reward.

#### Duration of Drivers licences

- 6.17 The Council will consider issuing driver's licence for 3 years providing this period coincides with the duration of medical reports and Criminal Records Bureau disclosures. This will save time for all involved.

#### Taxi rank provision

- 6.18 The provision of taxi-rank space will be reviewed throughout the District every three years in line with the policy review. Consideration will be given to new areas where necessary and appropriate. Consultation with interested parties will take place.

#### Knowledge test

- 6.19 Applicants will need to display a thorough knowledge of the area within the borders of Hart District Council and knowledge of rules and regulations required to be granted a licence. The test will comprise of an oral test. The cost of the test will be included in the initial fee paid for a driver's licence. There will however be a separate fee to re-take the test.
- 6.20 Satellite Navigation and other similar aids will not be considered as a suitable substitute for this knowledge, as they can malfunction or breakdown.

#### Communication skills

- 6.21 It is important that drivers can communicate effectively with their customers and others. Applicants will be expected to show good competence in the English language. This will be tested during the knowledge test (see paragraph 6.19 above).

## Medicals

- 6.22 All applicants are required to pass a medical examination which complies with the Group two standard set by DVLA before a licence is granted. The medical may be conducted by the applicants own Doctor or at Fleet Medical Centre or Park Road Surgery, Camberley using Hart District Council's appropriate medical examination form. The applicant will make the appropriate payment to the doctor for this examination at the time the examination takes place.
- 6.23 Medicals are required every three years, unless indicated by the Doctor. In these cases this will become a condition on issuing the licence.
- 6.24 Annual medicals are required for drivers from the age of 65 years and those deemed to be diabetic or for any other reason as prescribed by the Doctor
- 6.25 If there are any concerns on the medical examination, the applicant may be referred to the Council's Doctor at Fleet Medical Centre for a second opinion. The applicant will be expected to pay for this second examination.

## Driving Standards Agency

- 6.26 All new driver applicants are required to pass the DSA taxi driving test before a licence will be issued.

## **7 Administration Procedures**

- 7.1 We shall review our administrative procedures to improve the record keeping and administration of the issuance of licences. Service levels will be agreed and published by means of a Service Charter.
- 7.2 This policy will be reviewed every three years or sooner if a major change is required.

## **8 Appeals Procedures**

- 8.1 In matters where there is a right of appeal to the Magistrates' Court, the applicant or licence holder shall have a right to appeal in the first instance to the Council's Licensing Panel against an officer's decision. An appeal to either the Licensing Panel or the Magistrates Court must be lodged in writing within 21 days of notification of the Council's decision. The one exception is an appeal against the refusal to grant a proprietor's taxi licence. In this case the appeal is to the Crown Court.

**HART DISTRICT COUNCIL**

**LICENSING CONDITIONS FOR THE OPERATION OF  
HACKNEY CARRIAGE'S, PRIVATE HIRE VEHICLES  
STRETCHED LIMOUSINES & SPECIAL EVENT VEHICLES**

**CONTENTS**

	<b><u>Page</u></b>
PART I	11
Introduction	
PART II	12
General Conditions of Fitness and Design for both Hackney Carriages and Private Hire Vehicles	
PART III	18
Additional Specifications Relating to Mini-Buses	
PART IV	19
Additional Conditions Relating to Hackney Carriage Vehicles	
PART V	24
Additional Conditions Relating to Private Hire Vehicles	
PART VI	26
Additional Conditions Relating to Imported American Stretched Limousines licensed as Private Hire Vehicles	
PART VII	28
Hackney Carriage, Combined and Private Hire Drivers Licence Conditions	
PART VIII	32
Private Hire Operators Licence Conditions	
PART IX	35
Private Hire Drivers Licence Conditions	

## **PART I**

### **Introduction**

- 1) These conditions apply to licences for:
  - Vehicles; either Hackney Carriages or Private Hire Vehicles
  - Drivers;
  - Operators.
- 2) Although a vehicle may comply with these conditions, approval may be withheld if the Council is of the opinion that the particular vehicle is unsuitable for public use.
- 3) Unless the context otherwise requires it, any reference to “Licensed Vehicles” includes both Hackney Carriages and Private Hire Vehicles.
- 4) Attention is drawn to the policy of the Council which provides that applications for vehicle licences shall be conditional on the vehicle being tested as follows:
  - a) Vehicles from three years of age, (Paragraph 6.3 Hackney Carriage and Private Hire Licensing Policy), up to seven years of age are to be tested once a year.
  - b) Vehicles over seven years which are deemed to be in exceptional condition by the Licensing Authority are to be tested twice a year
- 5) The age of the vehicle will be calculated from the day of its first registration at the D.V.L.A.
- 6) Before any application is considered, the vehicle to be licensed must have been inspected and approved by Hart District Council’s appointed tester. The Council will also require a completed Hart District Council’s Vehicle Inspection Report and an application form together with the appropriate fee.
- 7) Whilst a policy of comprehensive insurance is recommended, this will not be insisted upon, provided that there is in force in relation to the use of the vehicle a policy of insurance or such security as complied with the requirements of Part VI of the Road Traffic Act 1988, covering the use of the vehicle to carry passengers for hire or reward.

## **PART II**

### **General Specifications of Fitness and Design for both Hackney Carriage and Private Hire Vehicles**

#### **1. General**

- 1.1 All Licensed Vehicles must comply in all respects with the requirements of any Acts and Regulations relating to motor vehicles in general or in particular and in force at the time of licensing, and with any retrospective changes introduced during the life of the licence.

#### **2. Wheels**

- 2.1 All Licensed Vehicles must have a minimum of four road wheels. In addition, at all times, the Licensed Vehicles must carry a spare wheel or other substitutes for a spare wheel as recommended by the manufacturer. The spare wheel must be fitted with a tyre in accordance with the manufacturers' specification for road wheels. Spare wheels should only be used in an emergency.

#### **3. Doors**

- 3.1 All vehicles must have at least four doors that can be opened from inside the vehicle (designed for the purpose of permitting persons access to and from the interior). Tailgates are excluded unless they are full width and height.

#### **4. Seating Capacities**

- 4.1 Vehicles shall have seating capacities of not less than four passengers and the number of seat belts fixed therein or calculated on the basis of a passenger unit seat width of 16 inches (40cm) measured laterally across the middle of any continuous seat, whichever is the least. No seat may be side facing. Subject to the further considerations of vehicle wheelbase and engine size as follows:-

- a) Any vehicle with a wheelbase of 96" (2.438m) or more shall be licensed to carry 4 (or more to a maximum of 8) passengers subject to engine size of 1.6 litres and seat measurement criteria as at paragraph 8.

#### **5. Steering**

- 5.1 The steering wheel must be on the offside (right hand drive only) of the vehicle.

## **6. Tyres**

6.1 All tyres must be kept at the correct pressure and be suitable for use on the vehicle.

## **7. Suspension**

7.1 Every vehicle must be fitted with an efficient suspension system so designed and constructed that there is no excessive roll or pitch.

## **8. Transmission**

8.1 Vehicles using automatic or semiautomatic transmission must be fitted with a device to prevent the engine starting with the transmission selector in a DRIVE or REVERSE position.

## **9. Fuel Tanks**

9.1 In the case of any engine powered by Liquid Petroleum Gas (“LPG”), a device must be fitted by which the supply of fuel to the engine may be immediately cut off. Its situation, together with the means of operation and “OFF” position must be clearly marked on the outside of the vehicle. Prior to a licence being issued, a certificate issued by a member of the LPG Association confirming that the LPG installation conforms with the Association’s Code of Practice and is therefore considered safe must be produced.

9.2 If an LPG conversion involves installation of an LPG fuel tank in a vehicle’s boot space (and possible relocation of the spare wheel) it shall be a requirement that an amount of space shall remain free for the stowage of a reasonable amount of luggage and any spare wheel displaced as a result must be stowed in a location that does not impinge on the passenger carrying area of a vehicle.

## **10 Electrical Equipment**

10.1 All electrical leads and cables must be adequately insulated and where liable to be affected by exposure to water, diesel, petrol or oil must be adequately protected.

10.2 All electrical circuits must be protected by suitable fuses.

10.3 Batteries must be placed and protected so that they cannot be a source of danger.

## **11 First Aid Kit and Fire Extinguisher**

- 11.1 A suitable first aid kit of a type or standard approved by the AA or R.A.C. shall be carried in the vehicle, together with an efficient fire extinguisher. The fire extinguisher shall be kept in a safe position in the boot and both the extinguisher and the first aid kit shall have the registration number of the vehicle and the Council's licence number affixed thereon. The fire extinguisher must be a minimum of 1kg dry powder type and comply with BS/ENS Standards.

## **12 Exhaust Pipes**

- 12.1 The exhaust pipe must be so fixed or shielded so that no inflammable material can fall or be thrown upon it from any other part of the vehicle and that it is not likely to cause a fire through proximity to any inflammable material on the vehicle. The outlet must be placed at the rear of the vehicle and in such a position as to prevent fumes from entering the vehicle.

## **13 Body**

- 13.1 The body must be of the fixed head type. An approved sunroof may be fitted.

## **14 Driver's Compartment**

- 14.1 The driver's seat must be designed to accommodate the driver only and be adjustable for reach.

## **15 Windows**

- 15.1 Windows must be provided at the sides and at the rear to enable passengers to see and be seen.
- 15.2 All passenger door windows must be capable of being opened easily by passengers when seated.
- 15.3 A windscreen that is cracked to an extent in excess of 1/4" shall be immediately replaced.

15.4 Tinted windows: All windows must have a visible light transmission of not less than 75%.

## **16 Heating and Ventilation**

16.1 An adequate heating and ventilation system must be fitted for the driver and passengers.

## **17 Glass**

17.1 The windscreen and all windows must be of safety glass in accordance with the latest British Standard/ENS at the time of the vehicle manufacture. Note that the use of tinted glass beyond a certain obscurity level is not allowed, as per paragraph 15.4 page 14.

## **18 Door Fittings**

18.1 Passenger doors must be capable of being readily opened from inside and outside the vehicle by one operation of the latch mechanism.

18.2 Approved central locking systems are permitted.

18.3 Double catches of approved types must be fitted to all doors.

## **19 Floor Coverings**

19.1 The floor of the vehicle must be suitably covered and kept in good repair.

## **20 Luggage**

20.1 Provision must be made for carrying luggage sufficient for the number of persons for which the vehicle is licensed.

20.2 If it is intended to carry luggage on the roof, the carrier must be of an approved type fitted to the roof guttering. It must not be used to carry weight in excess of the manufacturer's recommendation.

20.3 Estate cars must have sufficient luggage space for the number of passengers the vehicle is licensed to carry without having to fold any seat. A secure guard to the manufacturer's recommendation must be fitted between luggage and passengers.

20.4 Trailers may be used for the carriage of luggage in connection with private hire bookings ONLY and cannot be used for plying for hire on a rank. If a trailer is used it must at all times comply with all requirements of Road Traffic legislation in particular those laid down in the Road Vehicles (construction and use) Regulations 1986. The vehicle insurance certificate MUST include cover for towing a trailer. A suitable lid or other approved means of enclosure shall be fitted to secure and cover the contents of the trailer whenever in use.

## **21 Taximeter**

21.1 A Taximeter must be fitted to all Hackney Carriages and must be of an approved type and tested by or on behalf of the Council and sealed by the Council. It must be clearly visible to passengers. The extra facility for charging for passengers over four will be limited to those vehicles licensed to carry four or more passengers.

## **22 Radio Apparatus and Mobile Phones**

22.1 Where apparatus for the operation of a two-way radio system is fitted no part of the apparatus may be fitted in the rear boot compartment if LPG tanks or equipment are situated therein.

22.2 Any other radio receiver fitting must be of an approved type. Mobile phones if used must be of the approved hands free device as required by legislation.

## **23 Registration Marks**

23.1 Must comply with the latest specifications.

## **24 Maintenance**

24.1 Vehicles, including all fittings etc, must be well maintained and kept clean and in good working order. The vehicles will at all times be subject to test and inspection and should it be found that a vehicle is not being properly maintained or that any part or fitting is not in good working order, a notice will be served on the owner prohibiting him from using the vehicle until the defect has been remedied.

24.2 Condition of The Vehicle – The interior and exterior of the vehicle shall be maintained in a clean and proper manner to the reasonable satisfaction of the Council and without prejudice to the foregoing; in particular the exterior of the vehicle shall be free of large

dents, rust or un-repaired accident damage and shall at all times have uniform paintwork equivalent to that applied by the manufacture. The interior shall be free of all stains, splits, tears to the same and the seats shall be required to function in accordance with the original manufacturer's specification.

## **25 Advertising**

25.1 The Council will allow advertisements to be placed upon a vehicle subject to the following conditions:

- a) Advertising, not relating to the vehicle's proprietor or company, may, under certain circumstances be allowed on a hackney carriage vehicle on submission of a written request and details of the advertisement to the Council. Each request will be considered entirely on its own merits and if approved the written authority must be carried in the vehicle. No such advertising is permitted on a private hire vehicle.
- b) For saloons and estate cars all advertising /graphics etc must be confined to the sides, roof, rear or bonnet and must NOT obscure the lights, windows and plates.
- c) For mini-bus and people carrier type vehicles all advertising /graphics etc must be confined to the sides, roof, rear and bonnet and must NOT obscure the lights, windows or plates.
- d) Subject to the above a proprietor may have simple lettering and numbers on a vehicle in order to display a company name, address, telephone/fax number, e-mail address or web site or advisory notices to do with smoking, but lettering height must be a minimum of 75mm and a maximum of 150mm.
- e) No graphics/artworks or slogans or other displays of any kind are permitted without the consent of the Council.
- f) In the case of private hire vehicles advertising is subject to the specific **exclusion of the words "TAXI", "CAB" or "HIRE"**, the use of which is not permitted.

## **PART III**

### **Additional Specifications Relating to Mini-Buses**

#### **I. Sliding Doors**

- 1.1 A minimum of four doors is required. Slide doors, whether sliding or hinged, must be fitted with an audible warning device not connected to the horn, to indicate when they are open.

#### **2. Safety Rails**

- 2.1 Vehicles converted or adapted for luggage storage by the removal of passenger seats must be fitted with safety rails constructed in such a manner:
- a) as to prevent passengers from entering the space in the event of an accident;
  - b) so as not to obstruct the driver's view to the nearside;
  - c) that any luggage loaded must not interfere with the driver's controls;
  - d) so as to prevent any luggage loaded from moving into the passenger compartment in the event of an accident.

#### **3 Number of Passengers**

- 3.1 A mini-bus which is licensed as either a Hackney Carriage or a Private Hire Vehicle which has seating for no more than 8 passengers shall be so constructed or adapted that no additional seats can be fitted.

## **PART IV**

### **Additional Conditions Relating to Hackney Carriage Vehicles**

1. At all times the proprietor shall during the currency of the licence keep in force in relation to the use of the vehicle a policy of insurance that complies with the requirements of the Road Traffic Act 1988 or any re-enactment thereof. The proprietor shall NOT use the vehicle without there being in force such a policy of insurance. The policy /certificate of insurance must be readily available to be inspected by one of the Licensing Enforcement Officers if required to do so.
2. The identification plate provided by the Council bearing the number of the licence, the vehicle registration number, the maximum number of passengers to be carried, the make and model of the vehicle and expiry date shall be securely fixed, to the satisfaction of the Council, to the outside of the rear of the vehicle in such a position that it shall be clearly visible from the rear of the vehicle and shall not be less than 12” nor more than 30” to the bottom edge of the plate from the ground when the vehicle is fully laden and shall not be willfully or negligently concealed from public view while the vehicle is being used for hire. In any event, the licence plate shall not be fixed below the level of the rear bumper. The licence plate shall remain the property of the Council and may be removed at any time by the Council’s Inspector if he is of the opinion that the vehicle contains a fault of a serious nature and that the licence should be temporarily suspended or can be retained by the Council where the vehicle is not currently licensed by the Council.
3. The proprietor of the Hackney Carriage Vehicle shall not convey or permit to convey in such vehicle any greater number of persons than the number of persons specified in the vehicle registration document and indicated on the vehicle licence plate.
4. The Council shall be notified of all accidents or incidents affecting safety, performance or appearance of the vehicle or the comfort or convenience of passengers as soon as is reasonably practicable and in any event within 72 hours of the occurrence of the accident or incident.

5. The proprietor of the Hackney Carriage shall comply with the provisions of the Town Police Clauses Act 1847, the Local Government (Miscellaneous Provisions) Act 1976 and the Transport Act 1985 as far as these provisions apply to Hackney Carriages.
6. Vehicles over seven years which are deemed to be in exceptional condition will be required to be tested twice a year and may also require a full independent vehicle examination carried out by the RAC or AA.
7. Purpose built hackney carriages will normally only be licensed if they are less than four years old at the time the licence is issued and they have no material exterior or interior defects. The purpose built hackney carriage may be licensed up to 10 years of age. In exceptional circumstances and providing that safety is not prejudiced, licences may be issued for limited periods after this time subject to a full independent vehicle examination being carried out by the RAC or AA.
8. The vehicle may be inspected by the Council Inspector at any time. If a serious fault is discovered the licence may be temporarily suspended, and the Council's Licence Plate removed in accordance with paragraph 2 above.
9. The Council may decide to suspend, revoke or refuse to renew any licence in respect of a Hackney Carriage Vehicle:
  - a) for any reasonable cause, including;
  - b) That the Hackney Carriage Vehicle is unfit for use as a Hackney Carriage, or
  - c) any offence under, or non-compliance with, the provisions of the Town Police Clauses Act 1847 or Part II of the Local Government (Miscellaneous Provisions) Act 1976, or any re-enactment thereof on the part of the proprietor.
10. If a London style taxi is converted to give wheelchair accessibility then:
  - a) The nearside rear door must be capable of opening as wide as the aperture;
  - b) There must be sufficient space between the front of the rear seat and the partition for a wheelchair to turn;
  - c) There must be sufficient space for a wheelchair to travel facing rearwards;

- d) A means to secure both the chair and the wheelchair occupant must be provided;
- e) Ramps must be carried with the vehicle;
- f) Sufficient additional handholds and an additional step must be provided for elderly and disabled people who can walk;
- g) A side mirror shall be provided on the nearside and on the offside of any vehicle licensed as a Hackney Carriage or Private Hire Vehicle;
- h) For the convenience of subsequent passengers the consumption of food in a Hackney Carriage or a Private Hire Vehicle shall be discouraged;

## **11. Hackney Carriages**

- 11.1 The vehicle must carry a roof sign, capable of illumination, which must conform to a specification approved and adopted by the Council from time to time. The sign shall display "TAXI" to the front. An exception to this is purpose built vehicles fitted with permanently mounted signs.
- 11.2 The roof sign shall be illuminated when the vehicle is plying for hire.

## **12. Guide and Assistance Dogs**

- 12.1 Legislation has now been in force concerning the carriage of Guide and Assistance Dogs in Hackney Carriages and Private Hire Vehicles for sometime. It will be an offence for a licensed driver to refuse to carry guide and assistance dogs unless they have a medical exemption certificate. The dog should be carried in the foot well of the vehicle.
- 12.2 An operator may also commit an offence if they:
  - a) Do not accept bookings by or on behalf of a disabled person who is accompanied by a guide, hearing or other assistance dog;
  - b) Make an additional charge for carrying the dog.

If found guilty of these offences, a fine of up to £1000 can be imposed.

- 12.3 Drivers, in making an application for exemption will need to provide medical evidence in support. A medical practitioner other than the applicants General Practitioner must provide this. If the exemption is being applied for on the grounds of a chronic phobia to dogs the report must be provided by a psychiatrist or clinical psychologist.

### **13 Supervision**

- 13.1 The Hackney Carriage Licensing Enforcement Officer or other authorised officer of the council has the power at all reasonable times to inspect and test for fitness, any Hackney Carriage or Private Hire vehicle licensed by the Council or any taximeter affixed to the vehicle. If he/she is not satisfied as to the fitness of the vehicle or as to the accuracy of the taximeter he/she may, by notice, require the proprietor or driver to make the vehicle or taximeter available for further inspection and testing and may suspend the vehicle licence until such time as he/she is satisfied as to its fitness.
- 13.2 If the vehicle is not made fit within two months, the vehicle licence will be revoked. (S.68 of the LGMP 1976 Act)
- 13.3 A licensed vehicle hailed by a duly authorised officer shall stop to allow such examination but account will be taken of a fare being carried.
- 13.4 It is an offence to obstruct an authorised officer or fail to give such assistance or information as may be required or to comply with any reasonable requirement. It is also an offence to give false information.
- 13.5 When requested to do so by the Licensing Enforcement Officer, the Hackney Carriage or Private Hire vehicle proprietor will produce the certificate of insurance issued to the vehicle covering the use of hire and reward to the officer.

### **14 Responsibility of Proprietor or Operator**

- 14.1 The council will hold the owner or proprietor of a licensed Hackney Carriage or the Operator of a Private Hire vehicle responsible for the general condition and roadworthiness of his vehicle and for ensuring that his drivers are familiar with all conditions, legislation and by-laws regulating the operation of vehicles.
- 14.2 In certain instances therefore the proprietor or operator may be subject to enforcement action as a result of an offence committed by their driver. The council will however take

into account the circumstances of such offence and how far the proprietor has carried out his/her obligations in deciding whether to take any action.

## **15 Tariff Cards.**

- 15.1 Hackney Carriage vehicles are required to have the current tariff rate card displayed inside the vehicle for the guidance of passengers.

## **PART V**

### **Additional Conditions Relating To Private Hire Vehicles**

1. The identification plate provided by the Council bearing the number of the licence, the vehicle registration number, the maximum number of passengers to be carried, the make and model of the vehicle and expiry date shall be securely fixed, to the satisfaction of the Council, to the outside of the rear of the vehicle in such a position that it shall be clearly visible from the rear of the vehicle and shall not be less than 12” nor more than 30” to the bottom edge of the plate from the ground when the vehicle is fully laden and shall not be willfully or negligently concealed from public view while the vehicle is being used for hire (subject to certain exemptions paragraph 59 refers). In any event, the licence plate shall not be fixed below the level of the rear bumper. The licence plate shall remain the property of the Council and may be removed at any time by the Council’s Inspector if he is of the opinion that the vehicle contains a fault of a serious nature and that the licence should be temporarily suspended or where the vehicle is not currently licensed by the Council.
2. The Council shall be notified of all accidents or incidents affecting safety, performance or appearance of the vehicle or the comfort or convenience of passengers as soon as is reasonably practicable and in any event within 72 hours of the occurrence of the accident or incident.
3. The proprietor of a licensed vehicle shall comply with the provisions of the Local Government (Miscellaneous Provisions) Act 1976 so far as the provisions thereof relate to the operation and control of Private Hire vehicles.
4. The vehicle may be required for inspection by the Council Inspector at any time. If a serious fault is discovered the licence may be temporarily suspended, and the Council’s Licence Plate removed in accordance with paragraph 1 above.
5. The operator shall not assign or in any way part with the benefit of the licence without the prior written consent of the Council.

6. The Council may decide to suspend, revoke or refuse to renew any Licence in respect of a Private Hire Vehicle for any reasonable cause including:
  - a) that the Private Hire Vehicle is unfit for use as a Private Hire Vehicle, or
  - b) any offence under, or non-compliance with, the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976, or any re-enactments thereof on the part of the operator.
7. Plate exempt vehicles (used exclusively for executive type of work) will be exempt from displaying the mandatory licence plate but must carry licence plate in the vehicle together with the exemption certificate relating to the vehicle.

## **PART VI**

### **Additional Conditions Relating To Imported American Stretched Limousines Licensed as Private Hire Vehicles.**

1. All vehicles must be less than 10 years old when first registered.
2. Vehicles may be either left or right hand drive providing that they have proof of full DETR Vehicle Type Approval, and must be fitted with at least 4 doors and 4 wheels.
3. The interior and exterior of the vehicle must be maintained in a clean and proper manner to the reasonable satisfaction of the council.
4. There shall be no passengers carried in the front compartment.
5. Every seat shall have fitted a suitable seat belt or restraint.
6. Every seat, including those which are side facing, shall be at least 40cm in width measured along the seat base.
7. The VIN plate shall display 'ILI' to confirm conversion completed by an authorised dealer.
8. The applicant shall confirm, by a badge or other appropriate documentation the conversion dealer.
9. A plate on the door pillar shall confirm the total weight of the vehicle.
10. Fitted tyres to the vehicle must be either 235/75R-15 108S (BF Load) or 225/70R-16 107T Town Car Limo Tyre (Reinforced).
11. DVLA V5 or equivalent shall be produced to authenticate registration.
12. SVA (Single Vehicle Approval) documentation shall be produced to prove vehicle compliance with EC Type Approval Standards.
13. No intoxicating liquor shall be provided in the vehicle unless there is in force an appropriate licence permitting the sale or supply of the same.

14. All operators will be required to sign a declaration stating that the vehicle will not carry more than 8 passengers and at the time of booking the vehicle, this restriction shall be explained to the hirer.
15. A stretched limousine vehicle will be subject to twice-yearly mechanical examination at intervals to be specified by the council, at its authorised testing station.
16. Tinted glass shall conform to the legal requirements as laid down by the Vehicle Operators Services Agency (VOSA).
17. The proprietor shall not use the vehicle, nor permit it to be used when there is not in force for the vehicle a policy of insurance or such security which complies with the requirements of Part VI of the Road Traffic Act 1998 for hire and reward.

## **PART VII**

### **Driver's Licence Conditions**

#### **Hackney Carriage, Private Hire and Combined Licence Holders**

1. The Licensed Driver shall when driving any Hackney Carriage or Private Hire Vehicle observe and comply with the requirements of the provisions of any Orders, Regulations or Bylaws made under any Act of Parliament as if the provisions of such bylaws etc with respect to the regulation of Hackney Carriage Vehicle applies throughout the whole of the area now administered by the Council.
2. The licensed driver shall, at all times when driving a Hackney Carriage or Private Hire Vehicle, wear in a conspicuous position, the driver's badge issued to the Licensee by the Council bearing the number corresponding with the number assigned to the licensee in the register maintained by the Council for that purpose. The badge remains the property of the Council and must be returned to the Council immediately the driver ceases to be licensed by the Council.
3. On expiry, revocation or suspension of this licence, the licensed driver shall return the licence and badge in good condition to the Council within seven days.
4. The licensed driver shall at all times be suitably attired to the satisfaction of the Council and at all times behave in a civil, courteous and orderly manner, and shall take all reasonable precautions to ensure the comfort and safety of persons conveyed in or entering or alighting from Hackney Carriage or Private Hire Vehicles.
5. The licensed driver shall not convey in a vehicle used as a Hackney Carriage a greater number of persons than the number of persons specified in the vehicle registration document and indicated on the vehicle licence plate.
6. These conditions are without prejudice to the provisions of the Town Police Clauses Act 1847, the Local Government (Miscellaneous Provisions) Act 1976, or any Order made there under or the requirements of any others Act of Parliament or Order made there under and nothing in these licence conditions shall relieve the licensed driver from any duty to observe and carry out any obligation made there under.

7. The Council shall be notified of all accidents or incidents affecting safety, performance or appearance of the vehicle or the comfort or convenience of passengers as soon as is reasonably practicable and in any event within 72 hours of the occurrence of the accident or incident.
8. The driver of a licensed vehicle who has agreed or has been hired to be in attendance with the vehicle at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such vehicle at such appointed time and place.
9. The driver of a licensed vehicle so constructed as to carry luggage shall when requested by any person hiring the vehicle:
  - a) convey a reasonable quantity of luggage;
  - b) render reasonable assistance in loading and unloading the luggage.
10. The Council may vary any or all of the Conditions herein contained at any time.
11. A licence may be suspended, revoked or not renewed by the Council:-
  - a) if the driver has, since the grant of the Licence, been convicted of an offence involving dishonesty, indecency or violence; or
  - b) if the driver commits an offence or otherwise fails to comply with the provisions of the Town Police Clauses Act 1847, The Local Government (Miscellaneous Provisions) Act 1976 or the Transport Act 1985 or any re-enactments thereof;
  - c) if the driver has accrued 9 or more penalty points for convictions within the last three years. This should merit refusal. More than one conviction for more major traffic offences (reckless, careless driving etc, as defined in Endorsements and Disqualification Guide from DVLA) within the last two years should merit refusal and no further applications should be considered until a period of two years free from conviction has elapsed.
  - d) If the driver becomes disqualified from driving under any of the Road Traffic Acts or re-enactments thereof, the Licence shall be automatically revoked;

- e) if the driver is suffering, or has suffered, from any illness or disability and medical opinion has been received advising the Council he/she unfit to continue to act as a licensed driver;
- f) any other reasonable grounds
- g) THE DRIVER SHALL INFORM THE LICENSING OFFICER OF ANY CONVICTION IN ANY COURT AT ANY LEVEL WITHIN FOURTEEN DAYS OF THE COURT HEARING TAKING PLACE AND FAILURE TO COMPLY WITH THIS CONDITON MAY RESULT IN ANY LICENCE BEING SUSPENDED OR REVOKED

## **12 Knowledge Test**

- 12.1 All drivers will be required to take a knowledge test. This is designed to test the driver on their geographical knowledge of the area and conditions and responsibilities. If the applicant fails the test they may re-take the test after two weeks but will be charged for any subsequent test.
- 12.2 All new drivers (and existing drivers who accrue 9 or more points on their driving licence or other justifiable complaints about their driving), will be required to take and pass the Driving Standards Agency (DSA) Private Hire and Hackney Carriage drivers assessment test. The test is designed to improve road safety and to ensure that passengers have a safe and comfortable journey.

## **IMPORTANT NOTE CONCERNING HACKNEY CARRIAGE DRIVERS**

1. If the hackney carriage is standing at a rank or in a street the driver must not without reasonable excuse refuse to drive to any place within Hart District Council area. (Section 53 of the Town Police Clauses Act 1847).
2. The authorised fare scale must be used at all times for journeys within Hart District Council area, and may only be dispensed with for journeys ending outside Hart District Council area IF the hirer agrees BEFORE the journey commences. (Section 58 Town Police Clauses Act 1847)
3. If a hackney carriage is used for a private hire contract the fare is calculated from the point at which the hirer starts his journey. A private hire contract for this purpose is one made either with some person other than the driver, or when the hackney carriage is not at a rank or plying for hire. (Section 67 Local Government (Miscellaneous Provisions) Act 1976).
4. A hackney carriage must not be left unattended in a street or place of public resort or entertainment. (Section 62 Town Police Clauses Act 1847).
5. Drivers shall be courteous, this includes the requirement that they shall afford reasonable assistance with passengers' luggage.
6. Taxi Tokens; Hart District Council issue taxi tokens to enable persons to travel around within the District. Drivers are required to take these tokens in lieu of cash. These tokens may be redeemed for cash at the Council offices. Refusal to accept these tokens is an offence (Section 53 Town and Police Clauses Act 1847) and any person committing such an offence may have their licence revoked.
7. It is an offence under the Health Act 2006 to smoke in a Hackney Carriage or Private Hire Vehicle at any time.

## **PART VIII**

### **Private Hire Operator's Licence Conditions**

1. The licensed operator shall maintain a record book in a form satisfactory to the Council and enter into it before the commencement of each journey the particulars of every booking of a private hire vehicle invited or accepted by him whether by accepting the same from the hirer or by undertaking it at the request of another operator, as the Council may prescribe and shall produce such record on request to any "authorised officer" of the Council or any Police Officer for inspection.
2. The driver of a licensed vehicle shall keep a daily record in respect of the vehicle and hiring undertaken therein and in any record shall be entered:
  - a) licence number,
  - b) date,
  - c) name of the Licensed Operator of the vehicle,
  - d) name of the driver,
  - e) number of hours worked by the driver,
  - f) full details of every hiring undertaken,
  - g) this record shall be supplied on request to any authorised Officer of the Council for inspection.
3. The licensed operator shall not allow a greater number of Private Hire Vehicles to operate from his premises than the number for which planning permission has been granted by the Council.
4. The licensed operator shall submit to the Licensing Officer a decision notice from the Planning Officer that he approves and is aware of the use of the premises for the purpose of Private Hire at the address shown on the application for an operators licence.

5. No advertisement on or near such premises indicating that motor vehicles can be hired at those premises shall include the words “Taxi” or “Cab” (or any corruption thereof), whether in the singular or plural and whether alone or as part of another word unless the vehicles offered for hire are Licensed Hackney Carriages or the advertisement makes it clear that they are not.
6. The operator shall not cause or permit a vehicle to be used for the purposes of private hire other than in accordance with the licence granted in respect of the vehicle pursuant to the Local Government (Miscellaneous Provisions) Act 1976.
7. Licence holders who fail to renew their licences prior to the expiry of the existing licence will be treated for all purposes as a new applicant.
8. The Council may suspend, revoke or refuse to renew an Operator’s Licence for any reasonable cause including:
  - a) any offence under or non-compliance with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976, or the Transport Act 1985 or any re-enactments thereof;
  - b) any conduct on the part of the Operator which renders him unfit to hold an Operator’s Licence;
  - c) a material change in the circumstances of the Operator or the basis on which the Licence was granted.
  - d) Any other reasonable grounds e.g. failure to disclose on an application detail of convictions, including spent convictions.
9. The operator of the Private Hire Vehicle:
  - a) Shall not convey or permit to be conveyed in such vehicle any greater number of persons than the number of persons specified in the vehicle registration document.
  - b) Shall not display on any Private Hire Vehicle licensed by the Council any sign or notice:

- i. which consists of or includes the word 'taxi' or 'cab' (or any corruption thereof) whether in the singular or plural and whether alone or as part of another word;
- ii. which consist of any telephone number or address, or any words which appear to be or resemble a telephone number or address other than the name and/or telephone number of the operator or the trade name and/or telephone number of the operator providing that the trade name does not conflict with paragraph i) which sign may be displayed on the sides or the rear of the vehicle in letters not exceeding 5cm in height;
- iii. which consists of the words 'for hire' or the form or wording of which is in any way such as to suggest that the vehicle on which it is displayed is presently available to carry any passenger wishing to hire it or would be so available if not already hired.

10. Before a private hire operator's licence may be granted, the Applicant must:-

- a) Complete and give to the Council an application form ;
- b) Satisfy the Council that the Applicant is a fit and proper person to hold a private hire operator's licence;
- c) Pay to the Council the current fee.

## **PART IX**

### **Private Hire Driver's Licence Conditions**

1. The driver of a licensed private hire vehicle shall not ply for hire whether from a hackney carriage stand or anywhere else and shall allow no indication to be given that the private hire vehicle could be mistaken for a hackney carriage.
2. A Licence may be suspended, revoked, or not renewed by the Council:-
  - a) if the driver has, since the grant of the Licence, been convicted of an offence involving dishonesty, indecency or violence;
  - b) if the driver commits an offence or otherwise fails to comply with the provisions of the Local Government (Miscellaneous Provisions) Act 1876 or any re-enactment

**GUIDANCE ON THE RELEVANCE OF CRIMINAL RECORDS IN RESPECT OF APPLICANTS FOR A LICENCE TO DRIVE A HACKNEY CARRIAGE, COMBINED OR PRIVATE HIRE VEHICLE**

1. Unless otherwise specified, all applicants for new Hackney Carriage /Private Hire drivers must complete a Criminal Records Bureau check form prior to the granting of a licence and resubmit the same every three years.

2 **Refusal to complete the form will mean that a licence will not be issued.**

2.1 On completing the form all convictions (whether spent or not) must be declared:

2.2 All past convictions will be considered against the Guidelines. In every case the individual facts will be considered with the overriding consideration being the protection of the public.

2.3 Examples of the relevance of past convictions in relation to the issue, revocation or refusal to grant a licence are detailed below:

3 **Minor Traffic Offences**

3.1 Convictions for minor traffic offences e.g. obstruction, waiting in a restricted street, speeding etc should not prevent a person from proceeding with an application. However, if sufficient penalty points have been accrued to require a period of disqualification of the applicants DVLA driving licence then a licence may be granted after its restoration but a warning will be issued as to future conduct.

4 **Major Traffic Offences**

4.1 An isolated conviction for reckless driving or driving without due care and attention etc will normally merit a warning as to future driving and advice on the standard expected of licensed drivers. More than one conviction for this type of offence within the previous two years should merit a refusal on application. No further application should be considered until a period of three years from conviction has elapsed.

## **5 Drunkenness**

### **5.1 With a Motor Vehicle**

- 5.2 A serious view is taken of convictions of driving or being in charge of a vehicle whilst under the influence of alcohol.
- 5.3 More than one conviction for this type of offence will be a refusal to the applicant. At least three years should elapse (after restoration of DVLA driving licence) before the applicant will be considered for a licence. Any suggestion that the applicant is an alcoholic will require a special medical which will include a depletion liver test before the application is entertained. If an applicant is found to be an alcoholic, a period of five years from completion of treatment should elapse before further application is considered.
- 5.4 An isolated conviction for drunkenness need not bar an applicant from gaining a licence. However, a number of convictions for drunkenness could indicate a medical problem necessitating a critical medical examination (see above). In some cases, a warning may be sufficient.

## **6. Drugs**

- 6.1 Any applicant with a history of drug misuse will be required to undergo an appropriate medical examination to provide confirmation they are no longer an addict.

## **7. Indecency offences**

- 7.1 Applicants with convictions for indecent exposure, indecent assault, importuning or any of the more serious sexual offences will be refused a licence until they can show a substantial period (at least five years) free of such offences.

## **8. Violence**

- 8.1 Following any convictions for violence related offences such as: grievous bodily harm, wounding or assault, a period of three years free of such convictions is required to be shown before an application can be entertained and even then a strict warning will be administered. Where more than one conviction for any other act of violence, a period of five years free from convictions is required.

## **9. Dishonesty**

- 9.1 Single conviction for minor incident refusal for a period of one year free from conviction
- 9.2 Two convictions for minor incidents – refusal for a period of three years free from conviction.
- 9.3 More than two convictions for minor incidents or one or more convictions for significant act of dishonesty - refusal for a period of five years free from conviction.

## **10. Information**

- 10.1 In clarification of the above the recorded date of the court conviction is to be taken as the period to remain free of conviction from, unless a sentence of imprisonment or corrective training exceeding thirty months has been imposed, whence the period is to commence from the date of release from imprisonment.

## **11. Refusal/ Revocation of Licences**

- 11.1 Where an application is refused or a licence revoked a statutory appeal to the Magistrates Court may be made within 21 days of that notice.
- 11.2 Where the authorised officer is minded to refuse an application the applicant may be offered and may accept the opportunity for the application to be determined by the Licensing panel.

## **12. Licence Conditions**

- 12.1 Where new licence conditions are being considered the council will look to discuss these with the taxi trade through the annual trade meetings. Where conditions are revised in line with new legislation, every effort will be made to advise the trade through the same meetings.
- 12.2 Where a new condition is applied to a licence, the licence holder is entitled to appeal to either a Magistrates' Court or Crown Court, as appropriate, within 21 days of the application of the condition.