

You are requested to attend a meeting of the Licensing Committee to be held in The John Meikle Room, The Deane House, Belvedere Road, Taunton on 13 June 2017 at 18:15.

Agenda

- 1 Appointment of Chairman.
- 2 Appointment of Vice-Chairman.
- 3 Apologies.
- 4 Minutes of the meeting of the Licensing Committee held on 22 February 2017 (attached).
- 5 Public Question Time.
- 6 Declaration of Interests
To receive declarations of personal or prejudicial interests, in accordance with the Code of Conduct.
- 7 Licensing Service Update Report. Report of the Licensing Officer (attached).
Reporting Officer: Mark Banczyk-Gee
- 8 Proposal to amend the Standard Conditions attached to Hackney Carriage/Private Hire Licences. Report of the Licensing Manager (attached).
Reporting Officer: John Rendell
- 9 Background Checks for Hackney Carriage/Private Hire Vehicle Drivers. Report of the Licensing Officer (attached).
Reporting Officer: Alison Evens
- 10 Street Trading Update. Report of the Licensing Officer (attached).
Reporting Officer: Fern Avis
- 11 Minutes of the meetings of the Licensing Sub-Committee held on 8 and 10 May 2017, for information (attached).
- 12 Forward Plan (attached).

Bruce Lang
Assistant Chief Executive

22 February 2018

Members of the public are welcome to attend the meeting and listen to the discussions.

There is time set aside at the beginning of most meetings to allow the public to ask questions.

Speaking under “Public Question Time” is limited to 4 minutes per person in an overall period of 15 minutes. The Committee Administrator will keep a close watch on the time and the Chairman will be responsible for ensuring the time permitted does not overrun. The speaker will be allowed to address the Committee once only and will not be allowed to participate further in any debate.

Except at meetings of Full Council, where public participation will be restricted to Public Question Time only, if a member of the public wishes to address the Committee on any matter appearing on the agenda, the Chairman will normally permit this to occur when that item is reached and before the Councillors begin to debate the item.

This is more usual at meetings of the Council’s Planning Committee and details of the “rules” which apply at these meetings can be found in the leaflet “Having Your Say on Planning Applications”. A copy can be obtained free of charge from the Planning Reception Desk at The Deane House or by contacting the telephone number or e-mail address below.

If an item on the agenda is contentious, with a large number of people attending the meeting, a representative should be nominated to present the views of a group.

These arrangements do not apply to exempt (confidential) items on the agenda where any members of the press or public present will be asked to leave the Committee Room.

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Licensing Committee Members:-

Councillor K Durdan (Chairman)
Councillor G James (Vice-Chairman)
Councillor J Blatchford
Councillor W Brown
Councillor T Davies
Councillor M Floyd
Councillor J Gage
Councillor A Gunner
Councillor M Hill
Councillor J Hunt
Councillor S Lees
Councillor I Morrell, BA LLB
Councillor S Nicholls
Councillor A Sully

Licensing Committee – 22 February 2017

Present: Councillors Mrs Blatchford, Brown, Gage, Mrs Gunner, Mrs Hill, Hunt, James, R Lees, Morrell, Nicholls and Sully.

Officers: John Rendell (Licensing Manager), Mark Banczyk-Gee (Licensing Officer), Alison Evens (Licensing Officer), Fern Avis (Licensing Officer) and Clare Rendell (Democratic Services Officer)

Other: Councillor Berry

(The meeting commenced at 6.15 pm)

1. Appointment of Vice-Chairman

Resolved that Councillor James be appointed Vice-Chairman of the Licensing Committee for the remainder of the Municipal Year.

In the absence of the Chairman, Councillor James took the Chair.

2. Apologies/Substitution

Apologies: Councillors Davies, Mrs Lees and Ross.

Substitution: Councillor R Lees for Mrs S Lees.

3. Minutes

The minutes of the meeting of the Licensing Committee held on 16 November 2016 were taken as read and were signed.

4. Licensing Service Update Report

Considered report previously circulated, which provided an update on the activities of the Council's Licensing Service, changes to legislation, current consultations and other general Licensing matters.

A summary of the activity and performance of the Licensing Service since the last meeting of the Committee was as follows:-

- The performance of the Licensing Service was measured against the number of applications that were completed within 14 days of them being determined. The target was 95%.
- This target had been reached between 1 October and 31 December 2016.
- This was the second consecutive quarter that the service had achieved its target.
- The performance of the service over the last quarter was especially pleasing given the reduction in staffing levels during the period. Since the last Committee meeting, two members of staff had been appointed to the vacant posts.

Members were provided with a comparison of the number of applications received between October and December 2016 for the preceding two years and a summary of the numbers of licenses in force and notices given as at 6 February 2017.

Generally, application numbers during this period remained fairly similar in number to that period in the preceding two years. There had been a gentle increase in the number of Licensing Act 2003 applications and notices received over the three year period but, having looked more closely at the total number for each application and notice type, there were no clear trends that could be identified.

The numbers of service requests received by the service between October and December 2016, compared with the previous two years were also reported. There were more service requests recorded in 2015 and 2016 due to improved record keeping.

Members were familiar with the problems the service had experienced with Hackney Carriage and private hire vehicle drivers operating outside of the area, in particular the City of Bristol.

There were currently 16 individuals registered to Bristol addresses that still held diver licences, which was four less since the last report to the Licensing Committee. There were six continuing service requests/investigations into complaints, which related to four of the aforementioned individuals.

Although the 'out of area driver' policy had played a massive part in addressing the problem, there were plans to expand the 'knowledge and suitability' interview, to include a test on their geographical knowledge.

The Department for Environment, Food and Rural Affairs (DEFRA) had announced plans to tighten up dog breeding licensing legislation.

The new rules would mean that smaller establishments and commercial breeders must meet strict welfare criteria to get a licence. The rules would also be updated and made fit for the modern age with anyone trading commercially in pets online needing to be properly licensed too.

It was anticipated that the above changes would coincide with the modernisation of the other animal licensing regimes, concerning riding establishments, pet shops, dangerous wild animals, zoos and animal boarders.

The Policing and Crime Bill had received Royal Assent on 31 January 2017. Within the Act were a number of proposed changes to licensing legislation, specifically the Licensing Act 2003, which regulated alcohol, entertainment and late night refreshment.

There were particular changes which would affect personal alcohol licences. The 2017 Act would allow licensing authorities to suspend or revoke a personal licence where they became aware that the licence holder had been convicted of a relevant offence or was required to pay an immigration penalty.

The list of relevant offences, which already included offences involving alcohol, drugs, violence and psychoactive substances, had been expanded to include the following:-

- Using someone to mind a weapon;
- The manufacture, import and sale of realistic imitation firearms;
- Offences listed under Section 41 of the Counter Terrorism Act 2014, which included encouragement of terrorism and the preparation and training for terrorism;
- An offence listed in Part 1 of Schedule 15 to the Criminal Justice Act 2003 (specified violent offences), which included kidnapping, false imprisonment and threats to kill.

During the discussion of this item, the following points were raised:-

- Concern was raised about taxi drivers who had a Bristol address and were registered with the Licensing Department. How would this issue be tackled in the future?
Taxi drivers who did not live in the District would need to satisfy the new 'out of area' criteria on the taxi test. This would be administered when they applied to renew their licence.
- Would compliance tests be carried out now that Licensing Department were back to full capacity?
Licensing had maintained its checks on taxi drivers but had not yet discussed within the team the next stage for checks on premises and other licence holders.
- Concern was raised about public drinking and rough sleepers in the town and questioned how many fines had been issued under the new Public Space Protection Order since May 2015?
Unfortunately these figures were not available due to the fines being administered by the Police. The Environmental Health and Licensing Departments were in the process of being authorised to issue fixed penalty notices.
- How was the Licensing Department notified of convictions or relevant offences held by a licence holder?
The Department relied upon the licence holders and the Magistrates Court to notify them.
- Were taxi drivers obliged to notify the Department when they had been awarded any points on their licence?
Taxi drivers were advised that they should notify the Authority of any convictions, but they were not required to disclose information on points applied to their licence. However, when drivers applied to renew their taxi licence, the number of points on their licence were checked. If the points were above a certain level, the taxi driver would be invited to attend an interview with the Licensing Manager or a Sub-Committee hearing before the decision to renew the licence was taken.

Resolved that the report be noted.

5. Review and update of Policy for Street Trading – Itinerant Traders

Considered report previously circulated, concerning a proposal to amend the Street Trading Policy to address the operation of itinerant traders. The amendment would remove the requirement for such traders to hold a Street Trading Consent whilst they operated from street to street.

Taunton Deane Borough Council had adopted Schedule 4 for the Local Government (Miscellaneous Provisions) Act 1982 in order to control street trading. The Council had adopted the Act in such a way that all 'streets' within the District were designated as 'consent streets', meaning that street trading could only lawfully take place where the trader held consent from the Council.

An itinerant trader was defined as a trader who travelled from place to place (itinerant) to sell (trade). Although Taunton Deane did not currently classify or verify what an itinerant street trader was, the London Local Authorities Act 1990, had defined 'itinerant ice cream trading' – details of which were submitted for the information of the Committee.

Currently mobile ice cream vendors in Taunton Deane were treated as street traders and last year three consents had been granted. However, the Licensing Department had received a complaint from one of the licensed vendors, who had identified six other vans operating during the summer of 2016 without consent.

Due to recent changes in the department, Licensing had acknowledged that they had not been able to carry out the enforcement of licensing legislation across all the areas they covered. In particular, enforcement of itinerant street traders was difficult due to their rounds being changeable.

Research undertaken with other licensing authorities had shown that if a mobile ice cream vendor required permission to trade at a venue in a fixed spot they would require permission unless it was an event that required payment to enter. However, if they were mobile, there was no fixed approach.

Both North Somerset and Sedgemoor Councils currently dealt with ice cream vans as itinerant vendors and therefore did not issue them with a licence or consent unless they were static.

During the discussion of this item, the following points were raised:-

- Concern was raised about what limits there were on how many itinerant traders could operate in an area. Traders could park next to one another, which could cause congestion or conflict. How would this be controlled?
There was no control at present. The policy stated that they were not allowed to trade in the town centre. It was confirmed that there was no limit to how many street trading consents could be issued by the Council.
- Concern was raised that licenced traders would be disenfranchised by those who had not registered and who had travelled in from outside the District. It was also disputed that if Licensing were to register all itinerant traders, this would waste officer time. It was suggested that the market would regulate itself, so there was unlikely to be any 'ice cream wars'.
- A request was made for the Licensing Manager to present a full review on the Street Trading Policy at the next meeting. The last time the policy was reviewed was back in 2008.

Resolved that an amendment to the Street Trading Policy, whereby itinerant traders could go street to street and operate without a consent, be approved.

6. Proposal to introduce Proper Business Accounting for Hackney Carriage/Private Hire Drivers and Operators

Considered report previously circulated, concerning a proposed change to the policy and process which was used to determine the fitness and propriety of those that applied to renew their Hackney Carriage/private hire drivers' licence. This was to try and prevent tax evasion.

All Hackney Carriage and private hire drivers were self-employed and generally fell into one of three categories:-

- Those that owned their own vehicle and operated completely independently;
- Those that hired a vehicle from a larger operator; or
- Those that owned a fleet of vehicles, one of which they might drive but then hired the remaining vehicles to others.

Everyone who was self-employed in the UK was required, by law, to be registered with HM Revenues and Customs (HMRC) to whom they had to submit an annual self-assessment in order to have their income tax calculated.

The issue of tax evasion had been raised a number of times at the 'Taxi and Private Hire Forum', the last time being at the meeting held on 16 September 2015.

At the time, the view was taken that although the 'fit and proper' test applied to drivers could be expanded to include evidence of proper business accounting, a change could unnecessarily increase the application fee levied to the trade, particularly as there were already channels that allowed members of the public to report tax evasion direct to HMRC.

As the discussions developed, it was suggested that the Licensing Service could dictate that when drivers applied to renew their licence, they could provide a Unique Tax Reference (UTR) number, which was issued by HMRC, to show that they were properly registered to pay tax.

The Forum met again on 21 October 2015 and discussed the issue further. It was recognised that it would only be reasonable to expect existing drivers who applied to renew their licence to provide their UTR number, since many individuals who had applied for the grant of a licence had yet to find work, so would not necessarily be registered.

It had also been explained that the only practical and cost effective way of handling the UTR data would be to record the UTR numbers on the service database and share information on all drivers with the HMRC on a periodic basis.

Under the proposal, it was suggested that if the Licensing Service was to receive information from HMRC that a driver was not registered or had falsified their information, that drivers licence could be revoked. This proposed arrangement would take up very little extra time and would therefore have a negligible effect on application costs. An overwhelming majority of trade representatives voted in favour of this proposal to be recommended as a change in policy to the Licensing Committee.

In March 2016, the Licensing Manager met with the HMRC's Transformation and Implementation Lead Officer for the 'hidden economy'. At this meeting the HMRC Officer explained that compliance within the taxi sector was a real concern. The HMRC Officer agreed that the policy changes should be implemented and this would help them to act against those who did not operate legally.

During the discussion of this item, the following points were raised:-

- The majority of the Committee were in support of the recommendations.

- A concern was raised that the policy could victimise taxi drivers and be ultra-vires.
The report detailed the power the Council had when it set the criteria to be fulfilled for the fitness and propriety element of the licence application and it seemed reasonable to request an applicant to demonstrate proper business accounting.
- The Committee requested that the Council's solicitors checked the policy before it was implemented.
- It was suggested that to avoid officer's time being wasted, taxi drivers should be advised that they would need to bring in all the relevant information when they submitted their application. If they did not, they would need to obtain any missing details and resubmit.

Resolved that:-

- 1) The adoption of a new policy whereby the Council would require those who applied to renew their Hackney Carriage/private hire vehicle drivers licence to provide a Unique Tax Reference number issued by HM Revenues and Customs and that this data would be shared with the HM Revenues and Customs periodically (normally annually) and upon their request, be approved;
- 2) The adoption of a new policy whereby the Council would refuse to renew a Hackney Carriage/private hire vehicle driver's licence where the applicant/licence holder failed to provide a Unique Tax Reference number be approved; and
- 3) The adoption of a new policy whereby the Council would revoke a Hackney Carriage/private hire vehicle driver's licence where it had learnt that the holder did not have a valid Unique Tax Reference number be also approved.

7. Minutes of the Licensing Sub-Committees

Considered minutes previously circulated. Members requested they received updates on the Sub-Committees and be informed if the decision was appealed and the outcome of the appeal.

Resolved that the minutes be noted for information.

8. Forward Plan

Members discussed items that they would like to be brought before the Committee at the next meeting. These were identified as:-

- A review of the Street Trading Policy; and
- An overview of the Council's position on vaping in public areas.

Resolved that these items would be added to the Licensing Committee's Forward Plan.

(The meeting ended at 7.25 pm)

Taunton Deane Borough Council

Licensing Committee – 13 June 2017

Licensing Update report

This matter is the responsibility of Executive Councillor Patrick Berry

Report Author: Mark Banczyk-Gee, Licensing Officer

1 Executive Summary

- 1.1 This report provides an update on the activities of the council's licensing service, changes to legislation, current consultations and other general licensing matters.

2 Recommendations

1. That the report be noted.

3 Risk Assessment

Risk Matrix

Description	Likelihood	Impact	Overall
If the Licensing function were not carried out in an efficient manner, complaints or legal challenges may be brought that could undermine the work being done to support the Council's Corporate Strategy.	4	4	16
Demonstrating good governance of the licensing function through presentation of current arrangements and statistics relating to the licensing service.	3	4	12

Risk Scoring Matrix

Likelihood	5	Almost Certain	Low (5)	Medium (10)	High (15)	Very High (20)	Very High (25)
	4	Likely	Low (4)	Medium (8)	Medium (12)	High (16)	Very High (20)
	3	Possible	Low (3)	Low (6)	Medium (9)	Medium (12)	High (15)
	2	Unlikely	Low (2)	Low (4)	Low (6)	Medium (8)	Medium (10)
	1	Rare	Low (1)	Low (2)	Low (3)	Low (4)	Low (5)
			1	2	3	4	5
			Negligible	Minor	Moderate	Major	Catastrophic
			Impact				

Likelihood of risk occurring	Indicator	Description (chance of occurrence)
1. Very Unlikely	May occur in exceptional circumstances	< 10%
2. Slight	Is unlikely to, but could occur at some time	10 – 25%
3. Feasible	Fairly likely to occur at same time	25 – 50%
4. Likely	Likely to occur within the next 1-2 years, or occurs occasionally	50 – 75%
5. Very Likely	Regular occurrence (daily / weekly / monthly)	> 75%

4 Background and Full details of the Report

Performance of the service

- The performance of the licensing service is measured against the number of applications that are completed within 14 days of them having been determined e.g. a licence is issued after a decision as to whether to grant the licence or not, has been reached. The target for the service is that, for all applications that are completed within a set quarter, 95% must be completed within 14 days of them being determined.
- In respect of the last quarter we have reached a performance of 99% which is clearly +4% above our target. We will always strive for 100% albeit this is probably not achievable given the variances in licensing and delays that can occur simply due to the amount of data we process. This figure of 99% therefore given the recent history of the department is remarkable and testament to the licensing manager who is responsible for driving the positive change within the department.

Applications received and licences in force

- The numbers of applications received for each of the regimes administered by the licensing service, between 1st January 2017 and 31st March 2017, are shown in

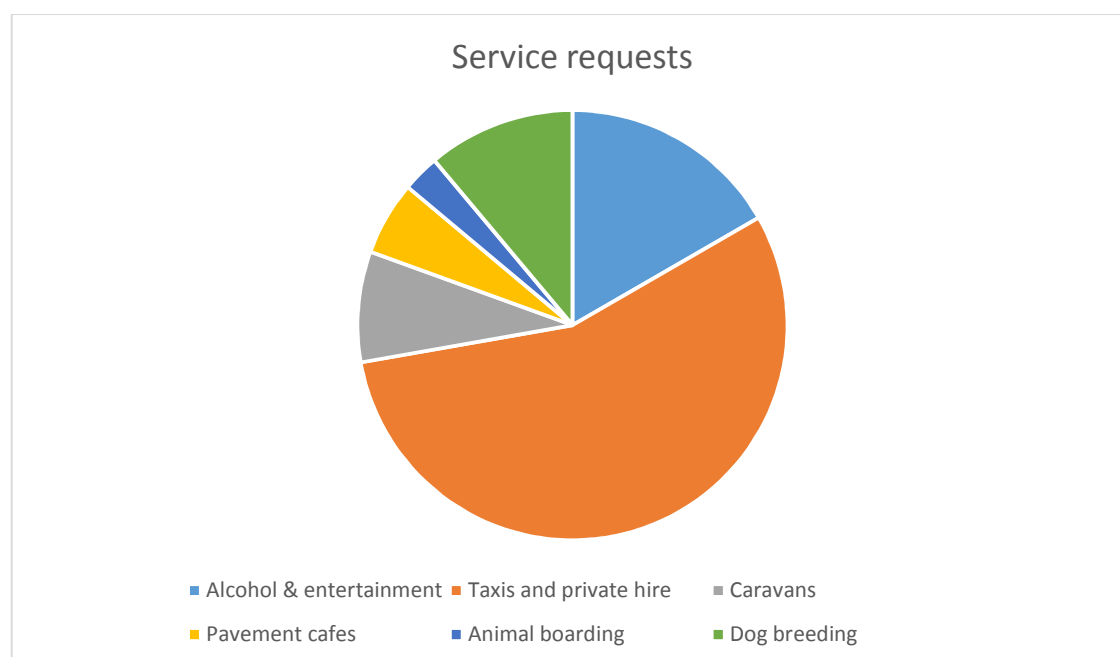
comparison with those received for the period in the preceding two years at **Appendix C**. The numbers of licenses in force and notices given as of the 6 February 2016 are shown at **Appendix D**.

TRENDS

4. There has been an increase in enquiries and subsequent applications in relation to premises licences for festival style events- Fake, Wellistock and Creech are examples, this has increased workloads as there has been as a result an increase in representations.
5. Street trading enquiries have increased as businesses and individuals seek to trade in the town centre, much of the decision making for these enquiries lies with economic development and county highways. As a result it is considered that one yearly street trading licence to Taunton Deane council would allow economic development the flexibility to control town centre traders and impact on the character of the town positively and with less red tape restricting their decisions.
6. Improvement of processes has made the team more efficient in turn this has led to less phone calls enquiries this in turn has allowed officers time to fully investigate complaints. A result of this is the exposure of some poor processes and procedures which have been ignored due to the dark times of 12/18 months ago examples would be the taxi handbook, Scrap metal dealers, updated application forms the problems of using a separate finance and record keeping system.

Service requests

7. Also shown at **Appendix C** are the numbers of service requests received between 1st January 2017 and 31st March 2017, compared with the previous two years.
8. Generally speaking, there are more service requests recorded in 2015 and 2016, due to improved record keeping.
9. 36 Service requests were received in total, during the above mentioned period. A split, by category is represented below:



Changes to the Licensing Act 2003 as a result of the Immigration Act 2016

10. Since the 6th April 2017 all applications after this date for the following licensing act applications require proof of the right to work in the UK to be provided, and this can be done with copies of documents such as passport, national identity cards if EU citizen, residence permits.

- Personal Licence
- Grant of premises licence
- Full variation of premises licence
- Transfer of premises licence
- Interim Authority Notice

All forms have been updated to this effect. We send all the applications to the home office apart from personal licence applications unless we have concerns over the data submitted.

At present it is not causing a huge time issue and once we have got into the habit I am sure it will not be an issue in respect of time or management.

In effect the HO have become a responsible authority and are included in our circulations to all responsible authorities.

Appeals against decisions made by the licensing authority

11. Currently there are two appeals on going –

Taunton Food and wine licence revoked at by committee on 16/1/17. This has been appealed and is listed to be heard at Taunton Magistrates court on 18/5/17. The result was the revocation of the licence stands.

Paul Toland hackney carriage /private hire drivers licence revoked by committee on 31/1/17. This followed a driving incident he was involved in and in respect of his driving and subsequent behaviour This has been appealed and is due to be heard at Taunton Magistrates court on 19/6/17

Vaping and e-cigarettes

12. Vaping and e cigarettes is a subject that has been bought up by the taxi trade in respect of smoking in hackney carriages/private hire vehicles. The question has been is this smoking because if it is not then clearly driver/passengers can vape in vehicles. As a result a short report in respect of the current position nationally around vaping has been produced (**appendix A**)

CCTV code of conduct for hackney carriage and private hire vehicle drivers

13. Like Vaping hackney carriage /private hire drivers and operators have sought guidance in the area of CCTV recording in their hackney carriage /private hire vehicles. In fact several have already installed such equipment and are operating it.
14. As the authority that licences them and to ensure uniformity and legality the licensing team have produced a report for consideration by the committee which would ensure the authority do not get pulled into any legal action taken by any persons in respect of the use of the cameras and subsequent footage. (**see appendix B**)

15. Review of House to House Collection guidance

The Licensing Service issues permits for House to House Collections which cover collecting money, property, door to door from houses or businesses.

In March 2017 new guidance has been produced by the Committee of Advertising Practice (CAP) following a review by the Advertising Standards Agency (ASA) into misleading advertising practices by private door-to door collection companies, in particular not making it sufficiently clear the commercial nature of its business. Problems with charitable collections bags issued by commercial companies have included:-

- Giving recipients the misleading impression they are donating directly to a charity when they are not
- Not providing their company name or commercial status on the front of collection bags
- Giving undue prominence to a charity's name and registration number on collection bags
- Not giving their company name equal prominence, where it appears, as the charity's name

This new guidance provides examples of the type of wording and presentation on collection bags that is in line with the rules

Upon receipt of these applications they are being checked in accordance with this guidance, prior to a permit being issued.

You can view the guidance information on line at www.asa.org.uk

5 Links to Corporate Aims / Priorities

1. The licensing service is committed to helping businesses and individuals to comply with all relevant legislation, in order to support new and existing businesses and enable cultural and leisure activities, thereby supporting the Council's growth agenda.

6 Finance / Resource Implications

1. No finance or resource implications identified.

7 Legal Implications (if any)

1. No legal implications identified.

8 Environmental Impact Implications (if any)

1. There are no specific environmental impact implications identified as a result of this report.

9 Safeguarding and/or Community Safety Implications (if any)

1. The four licensing objectives under the Licensing Act 2003 are:
 - Prevention of crime and disorder
 - Public safety
 - Prevention of public nuisance

- Protection of children from harm

With the addition of securing the welfare of animals, these are the main aims of the Licensing Service. The continued work of the service to achieve and promote these aims, further supports the role of the Council in ensuring community safety.

10 Equality and Diversity Implications (if any)

1. There are a number of protected characteristics identified in the Equality Act 2010, which are; age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation and members need to demonstrate that they have consciously thought about the three aims of the Public Sector Equality Duty as part of the decision making process. The three aims the authority must have due regard for are:
 - Eliminate discrimination, harassment, victimisation;
 - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
2. No equality and diversity implications were identified.

11 Social Value Implications (if any)

1. No social value implications have been identified.

12 Partnership Implications (if any)

1. No partnership implications were identified.

13 Health and Wellbeing Implications (if any)

1. Through effective regulation, confidence in licensed premises and activities can be maintained, helping communities to thrive.

14 Asset Management Implications (if any)

1. No asset management implications were identified.

15 Consultation Implications (if any)

1. No consultation implications were identified.

16 Scrutiny Comments

1. There are no scrutiny comments or recommendations.

Democratic Path:

- **Scrutiny / Corporate Governance or Audit Committees – No**

- Cabinet/Executive – No
- Full Council – No

Reporting Frequency: Once only Ad-hoc Quarterly
 Twice-yearly Annually

List of Appendices

Appendix A	Vaping report
Appendix B	CCTV report
Appendix C	Applications received
Appendix D	Licences in force

Contact Officers

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VAPING

Vaping is the term used to describe the smoking of e cigarettes.

At present it is seen as a healthier alternative to smoking conventional cigarettes however there is no national legislation that dictates when or where you can use these e cigarettes.

In Wales legislation is being processed to ban vaping in enclosed spaces similar to the current smoking ban in force in the rest of the UK. However there are no plans in respect of legislation in the rest of the UK.

Several transport links such as Heathrow airport, London underground, National Express coaches and Virgin trains have banned vaping.

Also several food and drinks chains have such as Starbucks, KFC to name but two have also banned the use of e cigarettes in their premises.

What is vaping -

E-cigs contain a sensor and a tiny computer chip. When you take a drag they activate a heater, which warms up a canister of highly addictive nicotine stored in propylene glycol – a solution of water and glycerine.

When the solution evaporates it creates a nicotine vapour that the smoker sucks in through the mouthpiece. Smokers exhale the vapour just as they would the smoke from a cigarette.

So the smoke is in fact vapour added to this is the aroma caused by the different flavours.

The health risk –

E cigarettes cut out 4000 harmful chemicals found in normal cigarettes which make them much safer but not completely harmless. They still contain nicotine. High doses of nicotine can kill research by scientists in America have found strikingly similar mutations in lung cells exposed to e cig vapour as those found in smokers of traditional cigarettes.

The fact is as it is in only the last few years it has become fashionable to use these devices as with normal cigarettes the dangers may not come to light for many years to come.

The safety risks –

There have been reported instances of devices causing fires or exploding and clearly there will be issues with devices that are purchased on the black market.

Vaping and the Taxi industry-

It seems in line with other industries as exemplified it is down to the businesses themselves to decide on whether vaping should be allowed.

In the case of the hackney carriage/private hire market will the vapour and smell impact on the passenger and if so will this harm or enhance the trade or in the case of Taunton Deane the borough council who manage/control the vehicles and drivers employed in this field should it be allowed in hackney carriages /private hire vehicles.

Given the concern there is for ensuring that vehicles and drivers present in a manner which enhances the reputation of Taunton Deane I cannot see how allowing the use of e cigarettes by drivers or passengers in hackney carriages or private hire vehicles will support the authorities aim to be a responsible authority within the area of hackney carriage and private hire licensing.

Taunton Deane Borough Council advised conditions relating to the use of CCTV in licensed vehicles

There is no requirement to install CCTV in vehicles licensed by this authority.

The purpose of CCTV

The purpose of the CCTV system shall be to provide a safer environment for the benefit of the taxi/private hire driver and passengers by:

- Deterring and preventing the occurrence of crime
- Reducing the fear of crime
- Assisting Police in investigating incidents of crime
- Assisting insurance companies in investigating motor vehicle accidents
- Assisting local authorities in ensuring compliance when investigating complaints against licensed drivers.

Minimum System Requirements

1. The power for the CCTV system must be linked to the vehicle ignition, and is not to be independently turned on or off.
2. Recordings made must be clear in all light conditions, whether in bright sunlight or at night and must be of sufficient quality and of suitable angle to enable the facial identification of individuals in the vehicle.
3. Usage must be to record inside the vehicle.
4. All recordings must be time and date stamped, with the full date displayed and time in hours, minutes and seconds.
5. The system must be capable of storing recordings for a minimum of 7 days.
6. Equipment to be used- safe e marked or CE marked – ensures quality of footage and safety of passengers/driver

Audio Recordings

1. Audio recordings shall not be made unless in exceptional circumstances, e.g. when triggered by a 'panic button'.
2. If audio recordings are made following the triggering of a 'panic button', a reset function must be present that returns the system to normal after a set period of time.
3. If the system is capable of recording audio, then the signage within the vehicle must confirm that audio recordings may be made.

However, should you wish to install such a system, the licensing authority advise is that you seek to comply with the following conditions.

1. Any CCTV system used must be professionally installed to the satisfaction of any inspection by the licensing authority. Any damage caused to the fixtures, fittings or trim of the vehicle during installation must be repaired to ensure no loose wires, sharp edges or ill-fitting trim remain.
2. Any CCTV system installed must be permanent to that vehicle and not temporarily fitted (e.g. with suction cups).
3. Any camera fitted must be installed in a conspicuous manner; concealed cameras will not be permitted.
4. Positioning- ensure that cameras only cover the inside of the vehicle
5. There should be no facilities within the vehicle to view recordings.
6. CCTV cameras, control boxes or any other feature of the CCTV system must be securely installed so as to not cause any harm or injury to the driver, passengers or any other person. This includes injury from electric shock from any wire or component as well as any injury resulting from physical contact with the system during day to day use of the vehicle or during an accident.
7. The proprietor/licence holder of the vehicle shall ensure that the CCTV system is properly and regularly maintained & serviced in accordance with the manufacturer's instructions
8. The proprietor/licence holder of the vehicle will identify the data controller, responsible for personal data captured in recordings and for ensuring compliance with applicable legislation.
19. The data controller must be registered with the Information Commissioners Office.
10. Recordings shall only be viewed/downloaded for one of the following reasons:
 - When the Police have formally requested the data.
 - As part of an investigation by the Licensing Section.
 - Following a Subject Access Request compliant with the Data Protection Act.
 - Customer dispute or request re lost property
11. The proprietor/licence holder of the vehicle shall not refuse any reasonable request to view footage made by the police or the Licensing Section, and shall make footage available as soon as reasonably practicable, and in any event within 7 days of the request.
12. Recordings must be kept for a minimum of 7 days and shall be kept for no longer than 31 days.
13. The proprietor/licence holder of the vehicle shall maintain a record concerning the CCTV system, including the following:
 - The make and model number(s) of all components comprising the system
 - The date the system was installed and the dates of all services to the system, including the nature of any faults identified.
 - The dates, times and reasons for any occasion where any 'panic button' is used.

- A record of any occasions in which recordings are downloaded or viewed, including the date the recordings were accessed, the dates and times concerned and the reason for the footage being accessed.

Such records shall be maintained for as long as the CCTV system is installed within the licensed vehicle plus an additional 31 days, and shall be made available upon request to any authorised officer of the Council or a police officer.

14. The proprietor/licence holder of the vehicle shall ensure that signage is displayed in the vehicle confirming that CCTV is in operation or can be operated within the vehicle. Such signage must be clearly visible from the exterior and interior of the vehicle to all users of the vehicle and must provide the name and contact details of the data controller. It is recommended at least two signs at least 8cm x 10cm

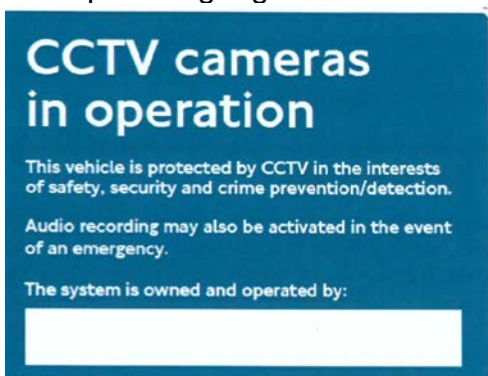
15. Failure to adhere to these conditions will impact on any application to get the vehicle or user licensed by the authority.

16. Activation methods can be any number of or combination of methods to include-

- Door switches
- Time delay
- Driver's panic button
- Predetermined G force parameters in the case of an accident

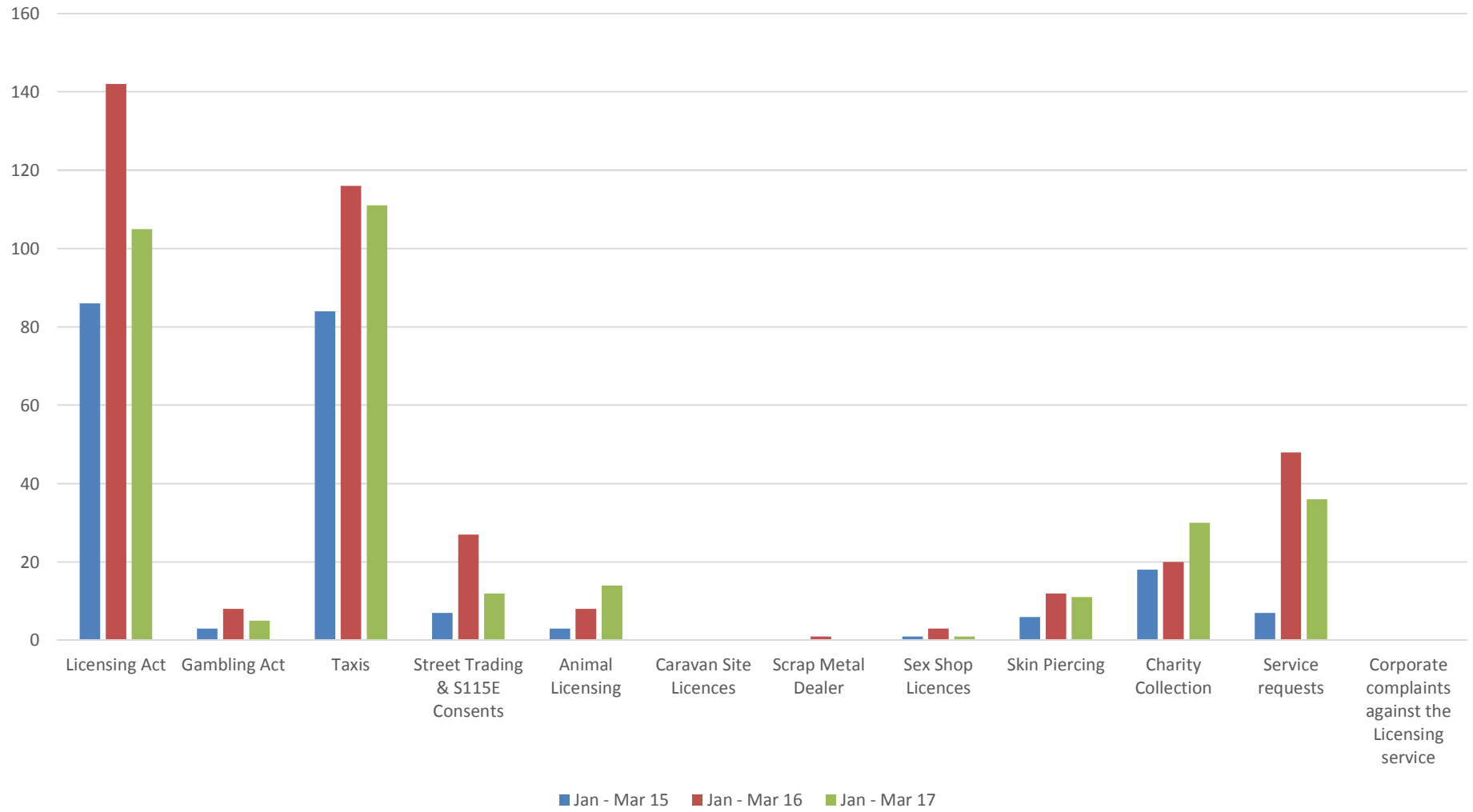
17. A direct wire link to the vehicles taximeter, in the case of a taxi will not be allowed.

Example of signage to be used-



The name and contact details of the Data Controller must be provided in the blank space included on the sign template. The contact details can be in the form of either a telephone number, email address or website URL.

Applications Received, Notices Given, Service Requests and Complaints



Licences Issued and Notices Given

These figures show the number of licences in force at the 18th May 2017 and the number of notices given since commencement of the relevant legislation

Licensing Act 2003 Premises Licences	412
Licensing Act 2003 Club Premises Certificates	27
Licensing Act 2003 Personal Licences	1423
Licensing Act 2003 Temporary Event Notices	3684
Gambling Act 2005 Club Machine Permit	6
Gambling Act 2005 Licensed Premises Gaming Machine Permits	10
Gambling Act 2005 Occasional Use Notices	43
Gambling Act 2005 Premises Licences	16
Gambling Act 2005 Prize Gaming Permits	0
Gambling Act 2005 Society Lotteries (since 01/09/2007)	114
Gambling Act 2005 Temporary Use Notices	0
Gambling Act 2005 Unlicensed Family Entertainment Centres	4
Gambling Act 2005 Notification of 2 or less Gaming Machines	62
Hackney Carriages	198
Private Hire Vehicles	37
Hackney Carriage & Private Hire Drivers	246
Private Hire Operators	17
Street Trading Consents	21
Section 115E (Pavement Café) Permits	7
Zoo Licences	0
Pet Shop Licences	4
Dog Breeding Licence	5
Animal Boarding Licence	20
Riding Establishment Licences	10
Dangerous Wild Animal Licences	0
Caravan Site Licences	42
Scrap Metal Dealer licence	6
Sex Shop Licences	1
Skin Piercing Registrations	263
Street Collection Permits	324
House to House Collection Permit	132

Taunton Deane Borough Council

Licensing Committee – 13 June 2017

Proposal to amend the standard conditions attached to licences to act as the drivers of hackney carriage and private hire vehicles

This matter is the responsibility of Executive Councillor Patrick Berry

Report Author : John Rendell, Licensing Manager

1 Executive Summary / Purpose of the Report

- 1.1 Members are asked to consider a proposal to amend the standard conditions attached to licences to act as the drivers of hackney carriage and private hire vehicles, in order to introduce a requirement for licence holders to notify the licensing authority of any endorsements made against their Driver Vehicle Licensing Agency (DVLA) driving licence.

2 Recommendations

- 2.1 That condition 17 of Appendix 1; the Private Hire and Hackney Carriage Driver, Vehicle and Operators Handbook (more commonly referred to as the 'Taxi Handbook') be changed from the original wording shown below at paragraph 2.2, to the wording shown at paragraph 2.3.
- 2.2 "The Licensee must inform the Council in writing within 72 hours if charged or convicted of any offence that has occurred since the granting of this licence."
- 2.3 "The Licensee must inform the licensing authority in writing within 72 hours if charged or convicted of any offence or upon endorsement of their Driver and Vehicle Licensing Agency (DVLA) licence, since the granting of the hackney carriage/private hire vehicle drivers licence."

3 Risk Assessment

Risk Matrix

Description	Likelihood	Impact	Overall
Failure to adequately safeguard the travelling public by not dealing promptly with matters that may bring into question the fitness and propriety of licensed hackney carriage and private hire vehicle drivers.	4	3	12

Risk Scoring Matrix

Likelihood	5	Almost Certain	Low (5)	Medium (10)	High (15)	Very High (20)	Very High (25)
	4	Likely	Low (4)	Medium (8)	Medium (12)	High (16)	Very High (20)
	3	Possible	Low (3)	Low (6)	Medium (9)	Medium (12)	High (15)
	2	Unlikely	Low (2)	Low (4)	Low (6)	Medium (8)	Medium (10)
	1	Rare	Low (1)	Low (2)	Low (3)	Low (4)	Low (5)
			1	2	3	4	5
			Negligible	Minor	Moderate	Major	Catastrophic
Impact							

Likelihood of risk occurring	Indicator	Description (chance of occurrence)
1. Very Unlikely	May occur in exceptional circumstances	< 10%
2. Slight	Is unlikely to, but could occur at some time	10 – 25%
3. Feasible	Fairly likely to occur at same time	25 – 50%
4. Likely	Likely to occur within the next 1-2 years, or occurs occasionally	50 – 75%
5. Very Likely	Regular occurrence (daily / weekly / monthly)	> 75%

4 Background and Full details of the Report

Licensing of hackney carriage and private hire vehicle drivers

- 4.1 Hackney carriage and private hire drivers are controlled by two pieces of legislation; the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
- 4.2 The Local Government (Miscellaneous Provisions) Act 1976 dictates that a local authority shall not grant a licence (to act as the driver of a hackney carriage or private hire vehicle) unless they are satisfied the applicant is a fit and proper person.
- 4.3 The term 'fit and proper person' is not legally defined and the Act of 1976 allows the local authority to 'require an applicant to submit to the local authority such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted or whether conditions should be attached to any such licence'. Thus the breadth of information and evidence the local authority may take into consideration in reaching its decision is far reaching.
- 4.4 Section 61 of the Act of 1976 also gives district councils the power to suspend, revoke or refuse to renew a drivers licence where the holder has been convicted of an offence involving dishonesty, indecency, or violence; has been convicted of an offence under or has failed to comply with the provisions of the Act of 1976 or Act of 1847; or for any other reasonable cause e.g. where the licence holder is no longer considered a fit and proper

person.

Council policy and practice

- 4.5 When this authority determines the fitness and propriety of an applicant or licence holder, three of the most significant considerations are the individual's health; their criminal history e.g. the existence of convictions, cautions etc; and the existence of any convictions or endorsements on their DVLA driving licence.
- 4.6 The policy document; the 'Private Hire, Hackney Carriage Driver, Vehicle and Operators Handbook' (more commonly referred to as the 'Taxi Handbook'), attached at **Appendix 1**, sets out the rules which govern applicants and existing drivers and the expectations the authority has, which includes the matter of DVLA driving licence convictions and endorsements. In general, the expectation is that those applying for the grant of a licence should have a 'clean' DVLA driving licence i.e. no record of convictions or endorsements, thus evidencing competent driving ability and the ability to comply with traffic law. The expectation of those applying to renew their licences is similar; that they should not have received any convictions or endorsements during the period of their existing licence.
- 4.7 Whilst the expectation is that all applicants should have a clean DVLA driving licence, the reality is that many individuals who come to apply have, at some time, received convictions and/or, more likely, endorsements (the distinction between the two is explained later in this report). Accordingly, section 2.7.5 of the Taxi Handbook sets out how such matters are to be dealt with, including the identification of offences which are of particular seriousness e.g. driving a vehicle whilst under the influence of alcohol.
- 4.8 An applicant's DVLA driving record is checked for endorsements and convictions using the online service available at <https://www.gov.uk/check-driving-information>. This is done using a 'check code' which the applicant first generates. Officers enter the check code, along with some other information, before they can then lawfully view the applicant's DVLA driving licence records.
- 4.9 In most circumstances and in accordance with the Taxi Handbook, where a Licensing Officer (who is dealing with an application) has concerns over any convictions or endorsement which an applicant has, these are raised with the Licensing Manager, who then interviews that individual. The purpose of that interview is to determine the fitness and propriety of the individual and where doubts or concerns remain, the next course of action is then to call a hearing so that a sub-committee of the licensing committee may make the decision.
- 4.10 The Taxi Handbook was originally introduced around 2008, drawing together several policies pertinent to the licensing of hackney carriage and private hire vehicles, operators and drivers. It has been amended on a number of occasions as policies have needed to be developed. Unfortunately, due to the upheaval experienced within the licensing service and subsequent poor performance, the handbook has not been received the attention it needs. Consequently, officers have identified a number of anomalies within policies contained within the handbook. Since the performance of the service has improved over the course of the last year, officers have been able to focus more attention on the development of policy and therefore the matter to which this report relates has been brought to the fore, along with another proposed change to the handbook which is the subject of another report to be presented at this meeting of the committee.

Hackney carriage and private hire vehicle driver licence conditions

- 4.11 This authority has elected to grant combined licences to enable individuals to act as both the driver of hackney carriages and private hire vehicles, rather than separate licences.
- 4.12 The Local Government (Miscellaneous Provisions) act 1976 allows conditions to be attached to driver licences, as may be considered 'reasonably necessary'. This authority has developed a set of standard conditions which are attached to every licence that is granted. These are contained within pages 24 to 28 of the Taxi Handbook (**Appendix 1**). Broadly speaking, they are rules which set out the standards of behaviour and dress expected and require drivers to notify the Licensing service of changes to their circumstances. They form the basis of the 'knowledge and suitability' interview, which every individual must pass before they are first granted a licence.
- 4.13 As explained at paragraph 4.9, the Taxi Handbook has not been revised or developed as often as officers would like and it is accepted that there are a number of areas where the language or content is not clear. The set of standard conditions is no exception.
- 4.14 Condition 17 requires the holder of a licence to 'inform the Council in writing within 72 hours if charged or convicted of any offence that has occurred since the granting of this licence.' This condition is important as it gives the authority the ability to review whether the licence holder is still a 'fit and proper person' in light of an offence being committed and determine if it is necessary to suspend or revoke their licence. It does rely on the honesty of the licence holder but as the licensing authority may learn of their being charged or convicted of an offence by other means, such as the Police making a disclosure using their common law disclosure powers, there is little for them to gain in the longer term by being secretive as dishonesty would only give greater cause for concern and harm their ability to renew their licence in future.
- 4.15 Although condition 17 refers to a licence holder disclosing to the Council their being 'charged or convicted' of an offence, this wording would exclude said licence holder from having to disclose the awarding of a fine and DVLA driving licence penalty points for reasons which will be explained below.
- 4.16 Asides from some of the more serious motoring offences, many are often dealt with by means of the issuing of a fixed penalty notice (FPN) to the offender, by the Police. This often happens with speeding offences. If the offender accepts guilt, they must accept the FPN and with that, the appropriate fine and number of penalty points that is levied (see Appendix 2 – list of DVLA driving licence endorsements). By doing so, they are neither 'charged' nor 'convicted' of an offence, evidenced by the fact that the offence does not show on their criminal record. For this reason and where a hackney carriage or private hire driver licensed by this authority receives a FPN, they are not duty bound to report such an event as it would not constitute an offence for which they have been 'charged or convicted'. Of course, if an offender is not offered a FPN due to the seriousness of the offence and are found guilty in the courts; or if the offender chose to contest the FPN in court and were found guilty; they would be 'convicted'. In that circumstance, if the offender were a hackney carriage or private hire driver licensed by this authority, they would need to report the event as per condition 17.
- 4.17 This is a clear anomaly. Section 2.7.4 of the Taxi Handbook, in particular the 'renewals' section, supports dealing with motoring offences where an application is made, rather than at the time the offence is dealt with, as it describes circumstances where licence holders will have received multiple DVLA driving licence endorsements. As previously stated, the expectation is that licence holders should not commit any motoring offences at all and officers believe the licensing authority should deal more firmly with licensed drivers to prevent re-offending.

- 4.18 Interestingly, a number of licensed drivers have, in recent months, dutifully reported having received and accepted FPNs for motoring offences, despite the letter and wording of condition 17 not covering such events. This has again highlighted the anomaly. The concern is that not all drivers do report DVLA driving licence endorsements and that in doing so, this authority is not minimising the risk to public safety. Within current arrangements, where endorsements need not be reported and hackney carriage and private hire vehicle driver licences can last up to three years, it is possible that we may be putting the public at risk, by only removing licences from unsuitable individuals that repeatedly commit motoring offences when they come to renew their licences, rather than sooner.
- 4.19 Officers believe the proposal within section 2 of this report will address the anomaly.
- 4.20 Should members of the committee agree to the proposal at section 2 of this report, some follow up work will be required to revise section 2.7.4 of the Taxi Handbook so that it is consistent with the new procedure.

5 Links to Corporate Aims / Priorities

- 5.1 One of the Councils core roles is public safety. Ensuring that those licensed to drive hackney carriage and private hire vehicle are fit and proper to do so is key to protecting the public.

6 Finance / Resource Implications

- 6.1 It is not anticipated that the proposal identified within this report will have any effect on finances or the resources of the service.

7 Legal Implications

- 7.1 The Local Government (Miscellaneous Provisions) Act 1976 dictates that, before the council can grant or renew a licence to a hackney carriage/private hire vehicle driver or private hire operator, it must be satisfied that the applicant is a 'fit and proper person'. Furthermore, the council has the power to suspend, revoke or refuse to renew a licence where the holder of a licence is no longer deemed to be fit and proper.
- 7.2 It is important that the council is in possession of up to date information in order to make decisions affecting public safety and the proposal within this report will enable the council to use its above mentioned powers to greater effect.

8 Environmental Impact Implications

- 8.1 None identified.

9 Safeguarding and/or Community Safety Implications

- 9.1 Through effective regulation of hackney carriage and private hire vehicles and drivers, confidence in a safe public transport regime can be maintained aiding its continued use by vulnerable members of the community to support independent living.

10 Equality and Diversity Implications

- 10.1 There are a number of protected characteristics identified in the Equality Act 2010, which are; age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation and members

need to demonstrate that they have consciously thought about the three aims of the Public Sector Equality Duty as part of the decision making process. The three aims the authority must have due regard for are:

- Eliminate discrimination, harassment, victimisation;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

10.2 No equality and diversity implications have been identified as the proposal will affect all licensed hackney carriage and private hire vehicle drivers.

11 Social Value Implications

11.1 As this report does not involve the procurement of services, no social value implications have been identified.

12 Partnership Implications

12.1 None identified.

13 Health and Wellbeing Implications

13.1 Through effective regulation of hackney carriage and private hire vehicles and drivers, confidence in a safe public transport regime can be maintained aiding its continued use by vulnerable members of the community to support independent living.

14 Asset Management Implications

14.1 None identified.

15 Consultation Implications

15.1 Officers believe the proposal within this report is essential in order to protect the public and therefore there has been no specific consultation with licensed hackney carriage and private hire vehicle operators and drivers, however those within the trade have been made aware of the proposal via the meeting of the taxi and private hire trade forum.

16 Scrutiny Comments / Recommendation(s) (if any)

16.1 The purpose of the Licensing Committee is to act for the Council in respect of licensing and registration functions. The Committee's powers include the power to discharge licensing functions on behalf of the licensing authority, outside of the usual democratic process.

Democratic Path:

- **Scrutiny / Corporate Governance or Audit Committees – No**
- **Cabinet/Executive – No**
- **Full Council – No**

Reporting Frequency : Once only Ad-hoc Quarterly
 Twice-yearly Annually

List of Appendices (delete if not applicable)

Appendix 1	Private Hire and Hackney Carriage Drivers, Vehicles and Operators Handbook
Appendix 2	List of DVLA driving licence endorsements

Contact Officers

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Private Hire and Hackney Carriage Drivers, Vehicles and Operators Handbook

January 2014 Edition



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1. Introduction and General Principles

This handbook gives details of all the current policies with regards to Hackney Carriage and Private Hire Vehicles, Drivers licences and Operators licences.

All policies in this handbook have been approved by the Council and will be subject to periodic updating and change. Readers are therefore recommended to use this handbook as a guide and refer to the Licensing Authority at Taunton Deane Borough Council for confirmation of the latest version of this document.

1.1 Hackney Carriage Licence – Dark Green and Black Plate

A Hackney Carriage Vehicle licence entitles the holder to work anywhere in the Taunton Deane Borough Council area, they may work from the ranks or be hailed on the street. The holder is also entitled to undertake private hire work.

1.2 Private Hire Licence– Light Green and Black Plate

A Private Hire Vehicle licence entitles the holder to work anywhere in the Taunton Deane Borough Council area taking pre-arranged bookings only. Private Hire Vehicles may not work from the ranks or be hailed on the street.

All Private Hire Vehicles must also work under a Private Hire Operators licence however an Operators licence is not necessary if you are operating a Hackney Carriage.

2. Hackney Carriage and Private Hire Drivers Issues

This section should be read in conjunction with Appendix 1 which contains the Council's full Standard Conditions for a Hackney Carriage/Private Hire Driver's Licence.

2.1 Drivers

All persons driving a licensed Private Hire or Hackney Carriage Vehicle must be in possession of a current Private Hire and Hackney Carriage Driver's licence issued by Taunton Deane Borough Council. The Council's driver's badge allows the holder to work in both capacities as a Hackney Carriage or Private Hire Driver. A Hackney Carriage or Private Hire Driver may only be granted a drivers badge if he has held an EU or GB driving licence for at least 12 months prior to application to Taunton Deane Borough Council.

2.2 Acceptance of Driving Licences - European Union member states

The Driving Licences (Community Driving Licence) Regulations 1996 allow full driving licences issued by European Economic Area states to count towards the qualification requirements for the grant of Hackney Carriage and Private Hire Drivers Licence.

2.3 Applicants from outside the UK

Drivers from the European Union on making an application must show their Passports or National Identity Card, equivalent CRB from their home countries (with appropriate translation), an EU driving licence and submit a recent medical conducted in the United Kingdom.

Applicants from outside the EU will be subject to an Immigration Status Check. The results of this check may take some time to be finalised and the applicant may not be permitted to work until it is concluded. The Immigration Status check may be done in advance of the applicant arriving in the United Kingdom providing documentation is sent to the Licensing Department at The Deane House, Belvedere Road, Taunton, TA1 1HE.

The Licensing Authority requires a five-year background check for all applicants, if an applicant has lived abroad for any period in the last five years or is from an EU member state or overseas then a certificate of good conduct authenticated and translated by the relevant embassy is required. The Criminal Records Bureau website (www.crb.gov.uk) gives more information about obtaining certificates of good conduct, or similar documents from a number of countries. More generally, the Home Office's Employers' Helpline (0845 010 6677) can be used to obtain general information on immigration documentation. Employers and the Licensing Authority are also able to obtain case specific immigration status information, including whether an applicant is permitted to work or details of work restrictions, from the Evidence and Enquiry Unit, Floor 12, Lunar House, Wellesley Road, Croydon CR9 2BY. Further details on procedures can be obtained from the unit on 020 8196 3011.

2.4 Drivers Badges

When granted a licence, drivers are issued with a badge. The driver must wear the badge at all times when they are working. The drivers badge should be visible at all times to passengers.

As a security measure if a badge is lost or stolen this must be reported to the police. A replacement badge will be issued, following the payment of a fee, once a Police Crime Reference Number is provided to the Licensing Authority. This will need to be reported to the Police as badge "lost or stolen" in order for a Crime Reference Number to be issued.

The Hackney Carriage/Private Hire Drivers' badge shall at all times remain the property of the Taunton Deane Borough Council and upon the Council suspending, revoking or refusing to renew this licence the licensee shall on demand return the badge to the Council.

Drivers may apply for either a one-year, or a three-year drivers licence, on renewal. However the Licensing Authority reserves the right to request, either

from the driver or the DVLA a copy of a drivers current Driving Licence at any point during the two or three year period.

2.5 Medical Checks

The House of Commons Transport Select Committee on Taxis and Private Hire Vehicles recommended in February 1995 that taxi licence applicants should pass a medical examination before a licence could be granted. Current best practice advice is contained in the booklet "Medical Aspects of Fitness to Drive" published by Medical Commission for the Prevention of Accidents.

A medical certificate shall be produced on the application for the grant of a licence and on the renewal of the licence, where the licensee has attained the age of 45, 50, 55 and 60 or the licensee attains any of these ages within the period of his/her licence.

Once the Licensee has reached the age of 60 years or attains the age of 60 within the next year he/she shall produce a medical certificate to the Council on the grant/renewal of a licence and each year thereafter.

If further medical tests are required for instance where in depth sight tests are required by the medical practitioner then the applicant must meet the additional cost of the same.

If your medical condition changes at any time during the period of your drivers' licence, you shall notify the Licensing Authority immediately or as soon as reasonably possible within 72 hours.

2.6 Insulin Diabetes Policy

The Borough Council has now amended its medical policy and now permits drivers with insulin treated diabetes to be licensed subject to strict criteria and a medical test for C1 vehicle usage. The following criteria need to be met in order that a licence can be granted:

- (a) no application for a taxi driving licence may be made or, in the case of an existing licensed driver, no licensed taxi may be driven until their condition has been stable for a period of at least one month;
- (b) drivers must not have had any hypoglycaemic attacks requiring assistance whilst driving within the previous 12 months;
- (c) drivers must regularly monitor their condition by checking their blood glucose levels at least twice daily and at times relevant to driving. The advice is the use of memory chip meters for such monitoring;
- (d) drivers must arrange to be examined every 12 months by a hospital consultant who specialises in diabetes. At the examination the

consultant will require sight of their blood glucose records for the last 3 months.

- (e) drivers must have no other medical condition, which would render the driver a danger when driving C1 vehicles or hackney carriages and Private Hire Vehicles;
- (f) drivers must sign an undertaking to comply with the directions of the doctor(s) or specialist medical advisor visited at least every six months and treating the diabetes and to report immediately to Taunton Deane Borough Council any significant change in their condition.

The driver would be expected to pay for any expenses that they incurred satisfying these criteria.

2.7 Previous Convictions

2.7.1 Disclosure and Barring Service

Taunton Deane Borough Council, as the 'Licensing Authority' is able to make applications to the Disclosure and Barring Service (DBS) to check whether new or existing taxi drivers hold a criminal record.

The results of a DBS application will be required when an application is made for the grant of a Hackney Carriage and Private Hire vehicle driver's licence and then every three years thereafter. The results of DBS applications will only be accepted if applied for through Taunton Deane Borough Council or through Somerset County Council and providing the application was made in connection with work which may involve contact with children and vulnerable adults.

DBS application forms can be collected from Licensing and Planning Reception.

In order for a DBS application to be made, the applicant must fill out the DBS application form and make an appointment to see a Licensing Officer so that their identity can be checked. This is done by the Officer checking a number of identification documents which the applicant brings to the appointment. When making an appointment, a member of the Licensing Team will explain the types of identification that are acceptable.

Following this appointment, the application is posted to the DBS. The results are sent directly to the applicant, normally within four to six weeks. It is then the responsibility of the applicant to submit the results document that they receive, to us so that we can make a decision. All Information that we receive is kept in the strictest confidence.

Where a DBS application is required when a taxi driver is renewing their licence, the driver is advised to submit a full renewal application (including DBS application) no later than six weeks before the expiry date of the licence.

This deadline date allows plenty of time for the DBS to process the application before the licence expires. In the event that the DBS results are not received before the licence expires, we are able to issue an extension to a licence. Where the six week deadline is not met and the licence expires, the applicant will be unable to drive a licensed vehicle until the results have been received.

Taunton Deane Borough Council abides by the DBS code of practice

2.7.2 Fit and Proper Person Test

The disclosure of a criminal record or other information will not necessarily debar the applicant from gaining a licence unless Taunton Deane Borough Council considers that the conviction renders the applicant not a “fit and proper person.” In reaching this decision the Council will consider all relevant facts such as the nature of the offence, how long ago the offence took place, the applicant’s age and any other factors which may affect the application, using the national guidance. Any applicant refused a licence on the grounds that they are not a fit and proper person to hold such a licence has a right of appeal to a Magistrates Court under the Local Government (Miscellaneous Provisions) Act, 1976.

Where there is any doubt as to whether the applicant is a “fit and proper” person, that application must be referred to the Licensing Manager or the Environmental Health Lead, who are delegated by the Council to grant, revoke or refuse Hackney Carriage and Private Hire licences, for consideration. In these circumstances the applicant may be interviewed by means of tape-recorded interview. A written record of the interview will then be considered in order for a decision to be made as to whether the applicant is considered “fit and proper”. In certain circumstances a Licensing Sub Committee may be convened to determine the matter. Should the applicant be deemed not to be a “fit and proper” person to hold the licence the applicant will be advised that he/she may appeal against the decision to the Magistrates Court within 21 days of the decision.

Please note that if a licence is not approved then the application fee will not be refunded. If an application has been refused, a period of at least twelve months must normally elapse before a new application will be considered.

2.7.3 The Rehabilitation of Offenders Act, 1974

The Rehabilitation of Offenders Act, 1974 provides that after a certain lapse of time, convictions for certain offences are to be regarded as “spent”. However the Act also specifies certain occupations for which effectively some previous convictions are never spent, these occupations include Hackney Carriage and Private Hire Vehicle drivers. In making a decision regarding previous convictions the Licensing Authority will consider the rehabilitation periods specified in the Act, these are set out below. Please note it is from the Date of Conviction that the time commences for the purposes of the Rehabilitation of Offenders Act:

Sentence	Rehabilitation Period
Two and half years (30 months) imprisonment and over whether sentence was suspended or not.	Never spent
Six months imprisonment and over but under 30 months whether the sentence was suspended or not	10 years
Under six months imprisonment / youth custody whether sentence was suspended or not	Seven years
A fine or Community Service Order	Five years
Conditional Discharge, Bound Over or Probation Order. Also includes Fit Person, Supervision and Care Orders	One year or period of probation sentence whichever is longer
Absolute Discharge	Six months
Disqualification, disability or prohibition	Period of sentence unless a long period as above eg Disqualification and a fine five years

For applicants aged under 17 when they were convicted; the fixed rehabilitation periods for imprisonment and a fine are halved.

For convictions which can only be passed on young offenders; they remain fixed and cannot be halved, i.e.

Sentence	Rehabilitation Period
Borstal	Seven years
Six months – Two years detention in a place determined by Secretary of State.	Five years
Six months detention and less as above	Three years
Detention Centre Orders	Three years

1. Each case will be decided on its own merits.
2. The overriding consideration will always be the protection of public safety.
3. A person with a current conviction for serious crime need not necessarily be permanently barred from obtaining a licence, but would be expected to remain free from conviction for three to five years before an application is entertained. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances.

2.7.4 Driving Licence Penalty Points

All penalty points are normally spent after three years from the date of offence. Exceptions to this are, for example, disqualifications whether for drink driving (10 years) or under the totting up procedure (four years). The periods of time that must elapse in other cases before the conviction becomes spent, vary considerably according to the nature of the offence and other circumstances. If you are not sure consult a solicitor, or take advice from Licensing staff that will be treated in confidence. The following guidelines will be used by the Licensing Authority to determine applications from drivers who have penalty points.

New Grant

The Council expects applicants for a new grant of Hackney Carriage or Private Hire Driver's Licences to have no convictions and to hold a clean DVLA Driving Licence or equivalent. The Council will not normally grant a licence to an applicant who has any convictions for more than one of the following offences: -

- (a) One offence of speeding committed at least 12 months prior to the date of the application, and/or
- (b) One endorseable parking offence.

Discretion may be exercised by the Licensing Manager to grant a licence where seven or more points appear on the applicant's DVLA Driving Licence if he considers the applicant is a "fit and proper" person, but only after the applicant has been interviewed.

Where the applicant has been disqualified from driving as a result of a conviction for Drink Driving, but that conviction occurred seven years or more prior to the date of the application and they have no other unspent convictions, the Licensing Manager may grant the licence provided that the applicant has been interviewed.

Renewals

The Council expects applicants for renewal of Hackney Carriage or Private Hire Driver's Licences to hold clean DVLA Driver's Licences or equivalent, or to have no more convictions or endorsements than they had when their last Hackney Carriage or Private Hire Driver's Licence was last renewed or first granted.

The Council will not normally renew a licence when, during the period of their existing licence, the applicant has been convicted of endorseable road traffic offences involving endorsement of no more than five penalty points (not counting any penalty points which were endorsed on the DVLA Driving Licence when the licence was first granted or last renewed, provided those penalty points do not take the total now endorsed on the DVLA Driving Licence to over seven penalty points) but no other offences.

Discretion may be exercised by the Licensing Manager to renew a licence where more than seven penalty points are endorsed on the applicant's DVLA Driving Licence if he considers that the applicant is a "fit and proper" person, but only after interviewing the applicant.

2.7.5 Further Guidance In Relation To Specific Offences.

Specific consideration will be given to the following previous convictions and discretion may be exercised by the Licensing Manager to renew a licence.

(a) Minor Traffic Offences

Convictions for minor offences e.g. obstruction, waiting in a restricted street, speeding etc., does not prevent a person from proceeding with an application. However, the number, type and frequency and repetition of these types of offences will be taken into account. If sufficient points have been accrued to require a period of disqualification of the applicants DVLA driving licence then a Hackney Carriage/Private Hire Drivers licence may be granted after its restoration but a warning will be issued as to future conduct. Holders of council issued drivers licences convicted during the period of licence of such offences may be warned as to future conduct, and any disqualification from driving will lead to an automatic revocation of any hackney carriage/ private hire drivers licence issued by the council.

(b) Major Traffic Offences

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 standards expected of Hackney Carriage and Private Hire Vehicle drivers. More than one conviction for these types of offences within the last two years may merit refusal and no further application will then be considered until a period of at least three years free from convictions has elapsed. Similarly, any conviction during the period of a council issued licence will lead to a warning as to future conduct and may lead to suspension or revocation of that licence.

(c) Drunkenness with a motor vehicle

A serious view will be taken of convictions for driving or being in charge of a motor vehicle under the influence of alcohol. An isolated incident in the past will not necessarily debar an applicant but a strict warning may be given as to future behaviour. More than one conviction for these offences raises grave doubts as to the applicant's fitness to hold a Hackney Carriage/ Private Hire drivers licence. At least three years will normally elapse after the restoration of the DVLA driving licence before an application can be considered for a Council issue driver's licence. If there is any suggestion that the applicant is or may be an alcoholic, a special medical examination will be arranged before the application is entertained.

If the applicant is found to be an alcoholic a period of five years should elapse after treatment is complete before a further licence application is considered. A driver found guilty of driving whilst under the influence of alcohol will have their Hackney Carriage/Private Hire Driver licence revoked immediately and will be banned from holding such a licence with the council for a minimum of five years.

(d) Drunkenness not in motor vehicle.

An isolated conviction for drunkenness need not debar an applicant from gaining a licence. However, a number of convictions for drunkenness may indicate a medical problem necessitating critical examination. In some cases, a warning may be sufficient. A conviction of this type of offence during the period of a council issued licence might warrant a warning as to future conduct, with subsequent convictions possibly leading to suspension and/or revocation of any licence held.

(e) Drugs

An applicant with a conviction for a drug related offence may be required to show a period of at least three years free of convictions before an application is entertained, or five years after detoxification treatment if he/she was an addict. A driver found guilty of driving whilst under the influence of drugs, or found guilty of any drug related offence will have their council issued drivers licence suspended and/or revoked immediately and be banned from holding such a licence with the council for a minimum period of five years.

(f) Indecency Offences

As Hackney Carriage and Private Hire Drivers often carry unaccompanied and/or vulnerable passengers, 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 free of such offences.

Each case will be treated on its merits. More than one conviction of this kind precludes consideration for at least five years. In either case if a licence is issued by the council then a strict warning as to future conduct may be issued. A driver found guilty of indecency offences during the period of the council issued licence will have their licence suspended or revoked immediately and be banned from holding such a licence for a minimum period of five years.

(g) Violence

As Hackney Carriage and Private Hire drivers maintain close contact with the public, a firm line is taken with applicants who have convictions for grievous bodily harm, wounding or assault. At least three years free of such convictions must be shown before an application is entertained and even then a strict warning will be administered. A driver found guilty of violence related offences will have their council issued licence suspended and/or revoked

immediately and be banned from holding such a licence with the council for a minimum period of five years.

(h) Dishonesty

Hackney Carriage and Private Hire Drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property, taking children to school and families on holiday is indicative of the trust that people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare. Overseas visitors can be confused by the change in currency and become “fair game” for an unscrupulous driver.

For these reasons a serious view will be taken of any convictions involving dishonesty. In general, a period of at least three to five years free of conviction will be required before entertaining an application. Any existing driver convicted of offences of dishonesty can expect a licence to be suspended and/or revoked and a possible ban on holding a licence for a minimum of three years.

(i) Insurance Offences

A serious view will be taken of convictions for driving or being in charge of a vehicle without the correct type of insurance. An isolated incident in the past will not necessarily debar an applicant provided he/she has been three years free of conviction unless there are exceptional circumstances, but a strict warning may be given as to future behaviour. More than one conviction for these offences will raise grave doubts as to the applicants fitness to hold a hackney carriage and private hire drivers licence unless there are exceptional circumstances. At least three years must normally elapse before an applicant is considered for a council issued licence. A driver found guilty of driving passengers for hire and reward without the appropriate insurance will have his licence revoked immediately and be banned from holding such a licence with the Council for a minimum of five years.

(j) Scanners and Radar Detecting Equipment

A serious view will be taken of convictions for use of scanning and/ or radar-detecting equipment. Anyone convicted of use of a radio scanner and/or radio-detecting equipment during the period of his/her hackney carriage or private hire driver's licence will be banned from holding any such licence for a period of five years. An isolated incident in the past will not necessarily debar an applicant provided that he/she has been three years free of conviction unless there are exceptional circumstances, but strict warnings will be given as to future behaviour. More than one conviction for these offences will raise grave doubts as to the applicant's fitness to hold a council issued drivers licence unless there are exceptional circumstances.

If you have any queries with regards to previous convictions please contact the Licensing Authority.

3. Hackney Carriage and Private Hire Vehicle Issues

This section should be read in conjunction with Appendices 3 and 4, which contain the Council's full Conditions relating to Hackney Carriages and Private Hire Vehicles respectively.

3.1 Vehicle Specification

If a vehicle is to be a licensed Private Hire Vehicle/Hackney Carriage Vehicle for the first time it must be no older than seven years from the date of first registration.

If a licensed Private Hire Vehicle is to be replaced, it must be replaced with a vehicle no older than seven years from the date of first registration.

Specialist and novelty vehicles or vehicles that have been subject to extensive modification for Disabled Access purposes will not need to comply with the above conditions. Each vehicle will be considered on individual application to the Licensing Manager.

All vehicles must comply with Taunton Deane Borough Council Vehicle Licensing Conditions at all times during the period of the vehicle licence. (See Appendices 3 and 4)

Certain vehicles are, due to the size and/or design unsuitable for licensing. Please check the suitability of the vehicle you have in mind with a member of the Licensing Team before purchase.

3.2 Vehicle Type

In 1998 the Council removed the restriction on the number of Hackney Carriages that could be licensed in the Borough, this allowed an increase from the 63 vehicles that were allowed at this time. At the same time and in response to Government Policy in relation to the Disability Discrimination Act 1995 a resolution was made that all new licensed Hackney Carriages would need to be Wheelchair accessible. Additionally a period of protection until 2005 was granted for the existing saloon fleet. This decision was based on the Government's then timetable for the introduction of all wheelchair accessible vehicles. A revision of the Governments timetable to 2012 for Taunton Deane resulted in an extension of this period by the Council.

Recently the Department for Transport has further revised this timetable and at present there is no clarity or clear Direction on a timetable for Government requirements and specification for accessibility in relation to Hackney Carriages, leaving local authorities to continue to set policy locally.

As of April 2009 there are currently 140 Hackney Carriages in Taunton Deane of which 86 (61%) (including six on saloon car plates) are wheelchair accessible, the national level of wheelchair accessible vehicles is (47%). There are 54 saloon vehicles (39%)

It has therefore been agreed that until there is clear direction from Government, and to ensure the number of Wheelchair accessible vehicles does not significantly decrease in the Borough, the number of saloon vehicles (the term Saloon vehicles includes estates and hatchbacks) will be set at a maximum of 65. The remaining fleet will consist of Wheelchair accessible vehicles which will be unlimited in number.

Any change to Council policy in this regard or any Council resolution to adopt a new Government Policy in this regard will have a rolling lead in period of five years, to ensure any changes can be planned into vehicle replacement strategies. This period may be reduced where required by any future mandatory Government legislation and is not within the control of the Council. The balance of the fleet will be reviewed annually.

3.3 Disability Discrimination Act (Other Issues)

Since 31 March 2001 licensed Hackney Carriage drivers in England and Wales have been under a duty (S37 of the Disability Discrimination Act 1995) to carry guide, hearing and other prescribed assistance dogs in their taxis, without additional charge. Drivers who have a medical condition that is aggravated by exposure to dogs may apply to their Licensing Authority for an exemption from the duty on medical grounds. Any other driver who fails to comply with this duty is guilty of a criminal offence and liable, on summary conviction, to a fine of up to £1000.

The Disability Discrimination (Transport Vehicles) Regulations 2005 came into force on 4th December 2006. The result of these regulations is to lift the previous exemption for transport vehicles. The effect of the regulations is to prevent any discrimination against providing transport services to disabled people.

A full copy of the Regulations may be obtained from the Disability Rights Commission Website www.drc-gb.org. If proprietors or owners wish to have Braille Fare cards for their vehicles then these are available on request from the Licensing Authority.

3.4 Limousines

All limousines needed to be registered as Private Hire Vehicles from 28 January 2008.

In England, Scotland, Northern Ireland and Wales limousines are all restricted to a maximum of eight passengers no matter how large the vehicle is. There are no exceptions to this rule. The reason for this is that to carry more than eight passengers the vehicle has to be registered as a Public Service Vehicle (PSV) and have a Certificate of Initial Fitness issued (COIF) however none of the American Limousines comply with the requirements and are therefore restricted by law to a maximum of eight passengers.

Limousines need to display the private hire plates at all times however they can apply for a plate exemption, by putting the request in writing to the Licensing Authority.

3.5 Contract Hire Vehicles

The Road Safety Act 2006 Sections 53 and 54 came into force on 28 January 2008. This new section of the act will require vehicles under contract for less than seven days to be licensed as Private Hire Vehicles. However there are certain exemptions from the law. Please contact the Licensing Authority for further details.

3.6 Insurance

Applicants must provide a certificate of insurance or cover note which is current and which must be for the correct category ie use as a Hackney Carriage (taxi) for hire or reward or public hire. For Private Hire insurance, certificates will only be accepted if Hire and Reward or Private Hire is stated.

A cover note will be accepted and the licence issued on the mutual understanding that the applicant will produce the certificate of insurance before the expiry of the cover note, which is usually 28 days. Should the certificate not be available, then a further cover note must be produced. All original insurance documents must be shown before a licence can be granted, faxed or photocopies of insurance documents cannot be accepted.

All drivers shown on the insurance certificate must be Council licensed drivers as only a licensed driver can drive a licensed vehicle. Therefore once you have licensed your vehicle, only you, as a licensed driver will legally be allowed to drive the vehicle. This applies even if a non-licensed driver wishes to drive the car for "social or domestic" purposes. Any non-licensed person found driving a licensed vehicle may face prosecution, as well as potentially invalidating the vehicles insurance.

The proprietor of the licensed vehicle shall ensure that the vehicle is insured for the carriage of passengers to be conveyed in the vehicle specified in the licence.

3.7 MOT

All vehicle licence grant and renewal applications must be accompanied by an original, valid MOT test certificate.

MOT certificates can be issued by any VOSA approved testing station.

3.8 Vehicle Registration Document

You must provide a Vehicle Registration Document with your correct name and address, a bill of sale, if you have recently purchased the vehicle, or a contract hire agreement, will also be accepted. The bill of sale must state the

vehicle registration number, make, colour and model of the vehicle; the date the vehicle was first registered and be in the name of the person licensing the vehicle. As soon as you receive the Vehicle Registration Document from the DVLA, the Licensing Officer must have sight of it.

3.9 Plate Test

All licensed vehicles must undergo the plate test in addition to an MOT. The purpose of the plate test is to ensure that any vehicle licensed by the Council is safe, comfortable and visually acceptable. For a full list of the test criteria, see Appendix 5.

The test can only be carried out by testing stations nominated by the Council. The Council's current nominated testing station(s) are:

Wellington Motors
Taunton Vale House
Chelston Business Park
Wellington
TA21 9JE

Tel: 01823 660660

The maximum fee for the Plate Test has been set at £50.00. There may also be savings offered to applicants where an MOT and Plate Test is booked together, however this is at the discretion of the testing station. Appointments for the test and arrangements for paying the fee should be made directly with the nominated testing station(s).

As part of the service level agreement between the Council and nominated testing station(s), a testing station is required to carry out a plate test within five working days of a booking being made. Where a Plate Test is required for the renewal of a vehicle licence, it is recommended that the proprietor should contact a testing station no later than 21 days before the expiry date of the current licence. If an appointment is required at short notice it will be subject to availability.

When making an application for the grant or renewal of a vehicle licence, the applicant will be required to submit proof that the vehicle has passed the Plate Test no more than 30 days prior to the date the application has been made, by submitting a satisfactory test inspection sheet.

As well as assessing the suitability of vehicles upon grant and renewal of a vehicle licence, the Plate Test may also be used by the Council to ascertain whether sufficient repairs have been carried out to a vehicle that has been damaged e.g. in a road accident.

3.10 Plate

All newly issued Taunton Deane Borough Council vehicle plates must be fixed on the rear of the vehicle. Where practicable the plate must be visible when the boot is in an upright position, and preferably low down on the extreme right or left hand side of the vehicle. The plate must not protrude below the bottom edge of the bumper of the vehicle and not be placed in the rear window of the vehicle. Please seek advice at the time of plate issue if required.

The vehicle plate is the property of Taunton Deane Borough Council, notwithstanding section 58 of the Local Government (Miscellaneous Provisions) Act 1976 the proprietor of the vehicle shall remove and return the plate to the Council within two working days, except where written permission has been given by the Licensing Officer to extend this time:

- (a) when the vehicle ceases to be a licensed vehicle.
- (b) when the licence is revoked or suspended by the Council including suspension and revocation under section 60 and 68 of the above act.

If the plate is not returned in accordance with the above then it may be removed by an Authorised Officer of the Council or a Constable.

In the event that the plate is damaged or lost or stolen, the proprietor shall notify the Council immediately and pay the Council the relevant fee for a replacement.

If the vehicle is suspended or the licence is revoked and the plates are subsequently damaged on removal by an Authorised Officer or Constable the proprietor shall then pay the requested fee for the replacement plates, if necessary.

3.11 Dual Plating

Taunton Deane Borough Council does not allow the dual plating of Hackney Carriages or Private Hire Vehicles with other Council areas.

3.12 Seat Belts

The passenger is responsible for ensuring that he or she is wearing a seat belt where appropriate. All cars, including taxis, first registered from April 1987, must be fitted with rear seat belts. Under the terms of the Road Vehicles (Construction and Use) Regulations 1986 the seat belts must be readily accessible to be used by the passengers in the relevant seats. If this is not the case, the driver or the driver's employer is liable on conviction to a maximum fine of £1,000.

4. Fares and Meters

4.1 Meter

All vehicles operating in the Taunton Deane Borough area, as Hackney Carriages must have a meter fitted in the vehicle. Private Hire Vehicles are not required to have meters fitted. The meter has to be sealed and the seal must not be removed or tampered with at any time. If a meter is fitted it should be positioned where passengers can clearly see it and to the satisfaction of the Licensing Officer.

4.2 Meter Testing

The Council carries out meter tests on randomly selected vehicles on an ad hoc basis. The test is to ensure that the meter is accurate for time and distance and that the Council's current maximum tariff is not exceeded. Where meters fail the test, arrangements will be made for the meter to be re-tested. A charge will be made for the re-test of a meter and is payable, prior to the test, at the Licensing & Planning Reception at The Deane House, Belvedere Road, Taunton, TA1 1HE.

4.3 Fare Card for Hackney Carriage Vehicles

The Council is charged with agreeing and setting a maximum tariff to be used by Hackney Carriage Vehicles. It is illegal to charge more than is stated on the Council's fare card and if you do so you will be liable to prosecution. Drivers and operators are permitted to charge less than the maximum tariff. The Council's maximum fare tariff will be reviewed periodically by Taunton Deane Borough Council or at the request of the Hackney Carriage Drivers.

You will be given a maximum fare card with your vehicle plate. This must be affixed inside the vehicle where it is conspicuous to all passengers (normally positioned on the dashboard). The fare card states the maximum amount you may charge per mile or part thereof. Where a discounted rate is charged it is recommended that operators also display the discounted schedule of fares to ensure consumers are clear about what they are going to be charged.

4.4 Fares for Private Hire Vehicle Licences

The level of fare must be agreed between the operator and the customer at the time of booking. A fare card applicable to Hackney Carriages is available on request as a guide only.

5. Private Hire Operators Licences

When you apply for a Private Hire Vehicle licence, you must apply for a Private Hire Operator's Licence at the same time if you wish to operate your own Private Hire Vehicle and make provision for private hire bookings. Without a Private Hire Operators licence you will not be issued a Private Hire Vehicle licence.

A Private Hire Operator's is renewed annually. Operator's licences are not needed to operate a Hackney Carriage Vehicle service. The Council's conditions in relation to Private Hire Operators are at Appendix 2.

6. Planning Permission

If you are running a business providing either Hackney Carriage or Private Hire services from your home address or business address you may also need to apply for planning permission. You will need planning permission if you wish to operate more than one Hackney Carriage or Private Hire Vehicle. It is the responsibility of the applicant to ensure that all necessary planning consents are obtained in relation to the provision of Hackney Carriage or Private Hire services. Please contact the Planning Department for your area through the main Council number on 01823 356356 for further details.

7. Record Keeping

The Licensing Authority requires that all Private Hire Operators keep records of each booking, including the name of the passenger, the destination, the name of the driver, the number of the vehicle and the fare quoted at the time of booking. This will, for example, enable police checks to be made should a mishap befall a passenger and may also be used by the Licensing Authority for enforcement enquiries. It is suggested that six months is generally the appropriate amount of time for records to be kept.

8. Advertising and Signage on Vehicles

If during the period of this licence the appearance or design of the licensed vehicle is to be altered then prior written consent of the Council to such alterations must be obtained. Magnetic signs may not be used on any licensed vehicle. Advertising materials shall not in any way interfere with vehicle plates, internal plates, meters or any other equipment or requirements of the Vehicle Licence Conditions.

8.1 Advertising and Signage on Hackney Carriages.

Advertising concerning the operator of the vehicle is permitted on the front and sides of the vehicle only. Additional commercial advertising on the vehicle requires specific permission in writing from the Licensing Authority. A roof light indicating that the vehicle is a taxi is permitted. The types of commercial advertising format (ie size, coverage on vehicle etc.) are essentially unrestricted, but is subject to the advertising criteria and content restrictions below.

There have been a number of headline rape and serious assault cases where members of the public have mistakenly taken a vehicle that was not a licensed vehicle or driven by a licensed driver. The Council wishes to promote both easily identifiable, high visibility taxis and the availability of the same to the general public and wheelchair users equally.

Applications for and any subsequent agreement of advertising will relate to a single advertising design on a specific vehicle model and colour, a fee is charged for such an application. Once agreed the subsequent application of advertisements on vehicles of the same model and colour will not require an additional fee. However the Council must be notified at the point at which a vehicle changes appearance by the application of an agreed advertisement to ensure Council records of vehicles details are correct. The application of an agreed advertisement but to a different model and colour of vehicle will require a new application to be made along with appropriate fee.

Advertisements must not contain content relevant to the following:

- (a) Alcohol
- (b) Tobacco
- (c) Gambling, Casinos etc.
- (d) Nudity or semi nudity
- (e) Politics
- (f) Religion
- (g) Adult only entertainment, products and services.

This list is not exhaustive and is provided as a guide to allow vehicle owners and operators to plan and prepare for advertising. The advertising criteria below apply in all cases.

- Advertising is only permitted with the prior written agreement of the Licensing Authority following receipt of a detailed written application for the proposed advertisement and the vehicle(s) it is intended to be applied to. This should clearly indicate the size, content and position of all advertising media.
- Advertising is granted only on receipt of a written agreement that the vehicle is returned to its original condition when the advertising is removed (eg faded paintwork over sprayed).
- When displaying commercial advertising the vehicle must also be clearly marked as a "Taxi" (this must take into account any other wording or graphics that appear on the vehicle).
- Advertising, graphics, wording or similar is not permitted on any windows, without prior written consent by the Licensing Authority.
- The advertising shall be removed immediately on receipt of a written request from the Licensing Authority. This may be in the form of a Stop Notice or Rectification Notice issued under the Local Government (Miscellaneous Provisions) Act 1976.

8.2 Advertising and Signage on Private Hire Vehicles

Some limited signage is permissible on Private Hire Vehicles (See Appendix 4, Condition 13), no commercial advertising will be allowed on private hire vehicles.

9. Accidents

If, at any time, you are involved in an accident you must inform the Council as soon as possible and, in any case, within 72 hours of the accident occurring. You may be required to submit the vehicle to the Licensing Authority within 72 hours to allow an assessment of the level of damage to be made. You shall not permit any passenger or member of the public to be conveyed in the vehicle unless and until the Council's Licensing Officer is satisfied that it may be so used. Where a vehicle is permitted to continue to be used prior to completion of repair works, the works must be completed or an appointment made for the repairs within 28 days of the accident.

Should the vehicle need repairing in any way, you must obtain a letter from the garage where the work has been undertaken to the effect that there is no work outstanding and the car is fully roadworthy, and submit this to the Licensing department. Notification will then be given if the vehicle can be used for work again. A Licensing Officer may request to examine the vehicle before it commences work again. A vehicle test may be required if the damage is extensive.

9.1 Accident Damaged Vehicles

Vehicles that fall into category A or B insurance losses will not be licensed other than in exceptional circumstances. No vehicle will be licensed as either a hackney carriage or a private hire vehicle where a condition report obtained from Equifax indicates that the vehicle has been previously classified as a category C, D or F insurance loss, unless a Motor Vehicle Repairers' Association (MRVA) inspector appointed by the Council indicates that the vehicle is safe to be licensed. The cost of the MVRA inspection report and any subsequent re-assessment must be met by the applicant. The Council and their agents will conduct its own Equifax checks on vehicles and bear the cost of the same.

10. Taxi ranks

The following is a list of all the Taunton Deane Borough Councils ranks

Taunton

Station Road
Castle Green (Taunton Bus Station)
Hammet Street
East Street
Space for eight Hackney Carriages on the North side of Corporation Street

Wellington

Space for two Hackney Carriages on the North side of the High Street

Any enquiries or issues regarding taxi ranks are dealt with the Highways Department at Somerset County Council.

11. Administration Issues

11.1 Change of Address

Should you move home within the life of the current Vehicle, Drivers or Operators Licence, you must inform the Council in writing within seven days of moving, of your new address and (if applicable) telephone number.

11.2 Change of Vehicle

Should you wish to change your vehicle during the life of the current vehicle licence, you may do so by applying for a New Vehicle Licence. The same procedure for an ordinary vehicle licence must be followed. The fee for a grant of a new vehicle is payable: however, when the licence is issued, it will be for a full 12 months.

Like for like changes of saloons and wheelchair accessible vehicles, and change from a saloon to wheelchair accessible vehicle are acceptable. Change from a wheelchair accessible vehicle to a saloon will only be possible if a saloon plate is available.

11.3 Sale of Vehicle for Private Use

If a Hackney Carriage or Private Hire Vehicle is sold to a third party as a private car then the Licensing Department must be informed immediately following the sale. The licence plate must be returned to the department within two working days. The licence plate is at all times the property of Taunton Deane Borough Council.

11.4 Transfer of Interest

Where a Hackney Carriage or Private Hire vehicle is sold to a new owner to continue to be used in this way, the seller of the vehicle must notify the Council in writing specifying the name and address of the person to whom the sale or transfer is made, within 14 days.

Transfers of interest can only be undertaken for the same plate on the same vehicle, a request for transfer of the same plate to new/different unlicensed vehicle would constitute a vehicle change (See Section 11.2 above).

At the point of exchange the seller of the vehicle must remove the plate from the vehicle and return it to the Licensing department. The new owner must

then make application for transfer of the vehicle and submit the necessary insurance documentation. Checks will then be made in relation to the validity of the insurance and, where appropriate, the Hackney Carriage/Private Hire Drivers Licence of the new owner. Following the satisfactory completion of such checks, a new licence will be issued to the new proprietor of the vehicle and the same vehicle plate returned.

12. Fees

Fees are applicable for each of the following applications:

Hackney Carriage/Private Hire Drivers Licence (Grant)
Hackney Carriage/Private Hire Drivers Licence (Renewal)
Hackney Carriage Vehicle Licence (Grant, Renewal and Transfer)
Private Hire Vehicle Licence (Grant, Renewal and Transfer)
Private Hire Operators Licence
Change of Vehicle Owners Name/Change of Vehicle Reg
Meter re-test
Replacement Plate
Internal Identification Sticker
Additional Knowledge Test
Replacement HC/PH Driver badge
Advertising of vehicles

Fees are reviewed on an annual basis and new rates normally apply for 1st April each year. A list of the fees is included with each application pack.

12.1 Methods of Payment

Payment must be made in full at the time of application in order for the application to be accepted. Payment made by cheque should be made payable to 'Taunton Deane Borough Council'. Cash and card payments can be made by enquiring at the Licensing and Planning reception desk, The Deane House, Belvedere Road, Taunton TA1 1HE.

13. Trailers

The use of Trailers on Private Hire Vehicles and Hackney Carriages will be permitted subject to the following.

- (a) For use only on pre-arranged journeys where passengers' luggage cannot be safely accommodated within the vehicle.
- (b) Trailers must be purpose built luggage trailers of commercial manufacture.
- (c) The contents of any trailer authorised must be secured and covered in a proper manner to protect them from the elements.

- (d) Any trailer used and the licensed vehicle used to tow it must comply with Road Traffic Regulations in all respects, including having specific insurance cover for the use of the trailer in such circumstances.
- (e) Any such trailers must be maintained in good working order.
- (f) Trailers must display a valid trailer plate issued by the Licensing Authority which must be fixed to the rear of the trailer, due to the vehicle plate being obscured from view by the trailer when in use.

Appendix 1

Standard Conditions for a Hackney Carriage/Private Hire Driver's Licence

1. In order to be a licensed driver the applicant must comply with the Councils application procedure which states that for the grant of a new licence the applicant:-
 - (a) must have held a full UK driving licence for at least one year granted under Part III of the Road Traffic Act 1988 (not being a provisional licence) or is authorised by virtue of section 99A or section 109 of the above act to drive in Great Britain a motor car
 - (b) must pass the Council's Knowledge Test
 - (c) must satisfy the Councils policy regarding convictions in relation to motoring and criminal offences.
 - (d) must supply a certificate, signed by his/her Doctor, stating that he/she is fit to drive for gain
2. A medical certificate shall be produced within seven days of the request from the Council for such certificate.
3. A medical certificate shall be produced on the application for the grant of a licence and on the renewal of the licence, where the licensee has attained the age of 45, 50, 55 and 60 or the licensee attains any of these ages within the period of his/her licence.
4. Once the Licensee has reached the age of 60 years or attains the age of 60 within the next year he/she shall produce a medical certificate to the Council on the grant/renewal of a licence and each year thereafter.
5. The Licensee shall not assign or in any way part with the benefit or the licence that is personal to him or her.
6. The Licensee shall at the request of any Authorised Officer of the Council or of any Police Officer produce for inspection his/her licence within five days of the request being made at:-
 - (a) in the case of a request by an Authorised Officer of the Council, The Deane House, Belvedere Road, Taunton
 - (b) in the case of a request by a Police Officer, any Police Station which is within the area of the Council and is nominated by the Licensee when the request is made

7. The Licensee, unless specifically exempted in writing by the Council, shall display, in such a position and manner as to be plainly and distinctly visible to the passenger(s), the driver's badge which will incorporate his or her photograph and badge number (the badge shall be provided by the Council and shall remain the property of the Council).
8. The Licensee shall pay a fee to the Council (as determined by the Council) on application of his or her Hackney Carriage/Private Hire Driver's Licence. The fee shall include the cost of the driver's first badge. In the event of the loss of the badge or of damage occurring to the badge that renders it unfit for use the driver will pay a fee to the Council for a replacement.
9. The Hackney Carriage/Private Hire Driver's badge shall at all times remain the property of the Council and upon the Council suspending, revoking or refusing to renew this licence the Licensee shall on demand return the badge to the Council.
10. The Licensee shall not while driving or in charge of a Private Hire Vehicle:-
 - (a) tout or solicit on a road or other public place any person to hire or be carried for hire in any Private Hire Vehicle
 - (b) cause or procure any other person to tout or solicit on a road or other public place any person to hire or be carried for hire in any Private Hire Vehicle
 - (c) offer that vehicle for immediate hire while the Licensee of that vehicle is on a road or other public place
 - (d) accept any offer for the immediate hire of that vehicle whilst the Licensee of that vehicle is on a road or other public place except where such offer is first communicated to the Licensee by telephone or by apparatus for wireless telegraphy fitted to that vehicle
11. A proprietor and/or driver of a Hackney Carriage when standing or plying for hire shall not by calling out or otherwise importune any person to hire such carriage and shall not make use of the services of any other person for the purpose.
12. The Licensee shall not permit or cause or suffer to be conveyed in a Hackney Carriage or Private Hire Vehicle a greater number of persons than that specified in the Licence issued in respect of that Hackney Carriage or Private Hire Vehicle.
13. The Licensee shall not without reasonable cause, unnecessarily prolong, in distance or in time, a journey for which the Hackney Carriage or Private Hire Vehicle he or she is driving has been hired.
14. If the driver of any Hackney Carriage or Private Hire Vehicle is involved in any accident then the driver must report the accident to the Hackney Carriage or

Private Hire Vehicle Licence holder as soon as possible. The Hackney Carriage or Private Hire Vehicle licence holder is to report the accident to the Council as soon as possible and in any case within 72 hours of any such accident occurring.

(Condition 14 is made without prejudice to the provisions of Section 25 of the Road Traffic Act 1972.)

15. The proprietor or driver of a Hackney Carriage or Private Hire Vehicle shall, immediately after the termination of any hiring or as soon as practicable thereafter carefully search the vehicle for any property which may have been accidentally left therein.
16. The Licensee shall, if any property is accidentally left in a Hackney Carriage or Private Hire Vehicle driven by him/her by any person who may have been conveyed in the vehicle be found by or handed to him or her, carry it within 48 hours, if not sooner claimed by or on behalf of its owner, to Taunton Police Station, Shuttern, Taunton, Somerset and leave it in the custody of the officer in charge of the office on his or her receiving a receipt for it.
17. The Licensee must inform the Council in writing within 72 hours if charged or convicted of any offence that has occurred since the granting of this licence.
18. The licensee must inform the proprietor of the vehicle if he/she has been convicted of any motoring offence, which may preclude him/her of legally driving the said vehicle.
19. When the Licensee is driving a vehicle equipped with a taximeter they shall:-
 - (a) when the vehicle is not hired keep the taximeter locked in the position in which no fare is recorded on the face of the taximeter.
 - (b) at the commencement of the journey when the vehicle, (not Private Hire Vehicle) is hired by distance bring the machinery of the taximeter into action so that the word "Hired" is legible on the face of the taximeter and keep the machinery of the taximeter in action until the termination of the hiring.
 - (c) be entitled to demand and take for the hire of the vehicle, (not Private Hire Vehicle) by distance the rate of fare indicated in the statement displayed inside the vehicle in accordance with Condition 6 of the Council's Conditions for a Private Hire Vehicle Licence and Condition 5 of the Council's Conditions for a Hackney Carriage Vehicle Licence, provided always that the Licensee shall not take or demand a fare greater than that shown on the face of the taximeter.
 - (d) ensure that during the time the vehicle is hired by distance the display of the taximeter is plainly visible to any person travelling in the vehicle and is properly illuminated.

- (e) not wilfully or negligently cause or suffer the letters or figures in the statement displayed inside the vehicle, in accordance with Condition 6b of the Council's Standard Conditions for a Private Hire Vehicle Licence and the Standard Condition 5a of the Standard Conditions for a Hackney Carriage Vehicle Licence, to be concealed or rendered illegible at any time.
20. The Licensee shall not tamper with or permit any person to tamper with the taximeter or the fittings thereof or seals affixed thereto with which any Hackney Carriage or Private Hire Vehicle in his or her charge is equipped.
 21. The Licensee when driving a Hackney Carriage or Private Hire Vehicle so constructed as to carry luggage shall carry a reasonable quantity of luggage in the vehicle if requested to do so by any person who has hired the vehicle.
 22. The driver of a Hackney Carriage or Private Hire Vehicle, when requested by any person hiring or seeking to hire the vehicle shall afford reasonable assistance in loading and unloading any luggage that the hirer may have.
 23. The Licensee shall conduct himself or herself towards any person who has hired the Hackney Carriage or Private Hire Vehicle he or she is driving and any other person conveyed in such vehicle in an orderly, seemly and courteous manner and shall take all reasonable precautions for the safety of persons conveyed in such vehicle.
 24. The Licensee shall ensure that he/she is employed or otherwise engaged as a Private Hire Driver by an Operator who holds a current valid Operator's Licence.
 25. The Licensee must convey a guide or assistance dog belonging to the passenger free of charge unless the driver has a proven medical condition that precludes such action, for which a medical certificate must be obtained.
 26. When driving a vehicle designed or adapted to permit the carriage of wheelchair bound passengers, the Licensee must not refuse wheelchair passengers:-
 - (a) unless he/she has a proven medical condition supported by a medical certificate from his/her doctor which precludes them from carrying wheelchair bound passengers.
 - (b) without reasonable excuse e.g. the wheelchair is not of a type or design suitable to be safely carried in the vehicle.
 27. The driver of a Hackney Carriage or Private Hire vehicle shall give the proprietor of the Hackney Carriage/Private Hire Vehicle and Operator of the vehicle a copy of his/her Hackney Carriage/Private Hire Drivers Licence.

28. The driver of a Hackney Carriage or Private Hire Vehicle shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
29. The driver on commencement of work shall ensure that there are no apparent defects to the vehicle and that the vehicle is fit to be used for gain.
30. The driver shall keep the vehicle, as is reasonably practicable, in a clean and tidy condition at all times.
31. The driver when carrying out pre arranged bookings shall on arrival at the point where the journey is due to commence, take reasonable steps to ensure that the customer is aware of the presence of the vehicle.
32. The driver shall not sound the horn on arrival at an appointed place.
33. A Hackney Carriage/Private Hire Driver shall –
 - (a) Wear clean and tidy attire and shall not dress in a manner likely to embarrass or offend passengers. The wearing of vests or singlets is prohibited.
 - (b) Shorts may be worn if properly tailored and of sufficient length when the driver is seated as not to offend against decency.
 - (c) For women drivers acceptability will additionally include skirts or dress of sufficient length when the driver is seated as not to offend against decency.
 - (d) Maintain a high standard of personal hygiene.
 - (e) Be able to speak English.
 - (f) Not use a mobile phone whilst the vehicle is moving, with the exception of a hands free device.
 - (g) Refrain from eating or drinking whilst carrying passengers.
 - (h) Not smoke, or allow passenger to smoke in the vehicle at any time.
34. Not equip the vehicle with any scanning equipment.
35. Not make a U-turn when leaving or returning to any of the Taxi Ranks.

Appendix 2

Standard Conditions for Private Hire Operators Licence

1. The Licensee shall keep a record of each journey, for every booking of a Private Hire Vehicle invited or accepted by him or her, whether from the hirer or another Operator. So as to make the following information available:-
 - (a) date
 - (b) time
 - (c) whether direct from hirer or at request of another Operator (in the latter instance the name of the Operator must be given)
 - (d) where possible name of hirer and address
 - (e) place at which vehicle is to attend
 - (f) date and time at which vehicle is to attend
 - (g) destination
 - (h) plate and registration number of the vehicle
 - (i) name of driver of vehicle

the Licensee shall preserve the particulars of each journey at the address of the place of business notified to the Council, in writing, for a period of not less than three months. The Council may require the Licensee to preserve such particulars for a longer period by delivering a notice in writing to the Licensee at least seven days before the end of a three month period. If the council serves such a notice on the Licensee, the Licensee may not destroy the particulars referred to in that notice, until such further notice in writing from the Council is served on the Licensee which authorises the destruction of the said particulars.

2. The Licensee shall keep a certified true copy of the current Private Hire Drivers Licence issued by the Council at the Operators office, and the following particulars of all licensed Private Hire Drivers engaged to drive any Private Hire Vehicle operated by him or her:-
 - (a) Private Hire Drivers badge number
 - (b) Date that employment commenced
 - (c) Date that employment terminated
3. The Licensee or his/her controllers shall produce all or any of the records specified in conditions 1,2 or 3 above on request to any Authorised Officer of the Council or to any Constable for inspection as soon as reasonably practicable or in any case within 72 hours.
4. The Licensee shall not operate any vehicle, which is not exempted from the provisions of Part II of the Local Government (Miscellaneous Provisions) Act, 1976, by section 75 (1) of that Act, as a Private Hire Vehicle unless it is has a current Private Hire Vehicle Licence granted by the Council. However, the Licensee may operate any unlicensed vehicle from the authorised premises mentioned in the Licence provided that the usage of such vehicle is exempt

from control under Part II of the Local Government (Miscellaneous Provisions) Act, 1976.

5. The Licensee shall ensure that the vehicle being used for the distribution of bookings from the Licensee is at all times driven by a person who holds a valid Private Hire Driver's Licence granted by the Council.
6. Should the Operator change the address from which he/she makes provision for the acceptance of bookings, from the address given on his/her application form. Details of the change of address must be notified within seven days of the change to the Licensing Manager, The Licensing Unit, Taunton Deane Borough Council, The Deane House, Belvedere Road, Taunton TA1 1HE.
7. Any change of address of the Licensee must be notified to the Licensing Manager at the address as above.
8. If the licensee does not operate any licensed Hackney Carriage vehicles then no advertisement containing wording which includes the words Acab@ Ataxi-cab@ or Ataxi@ may be displayed or used in any advertisement
 - (a) in this licence Advertisement@ includes any form of advertising, whether in a publication or by the display of notices or by means of circulars or other documents or by exhibition of photographs, pictures, video tape, film, computer generated images or by way of sound broadcasting or television
 - (b) "Ataxi-cab@ and Acab@ includes the words whether in the singular or plural and words of similar sound or appearance whether alone or as part of another word
9. The Licensee shall ensure that all licensed vehicles carrying out work for which the operator is licensed shall satisfy the conditions of the Council.
10. The Licensee must inform the Council in writing within seven days of a driver joining the company or firm, or conducting any bookings distributed by the Licensee.
11. This Licence has been granted to the Licensee personally and does not licence any other person, who may take over the Licensees business for which he or she requires a Private Hire Operators Licence, as a Private Hire Operator. Therefore, unless any person who intends to take over the Licensees said Private Hire business is already an Operator licensed by the Council that person must obtain an Operators licence in his or her own right from the Council prior to taking over the said Licensees Private Hire business.
12. The Licensee shall display this licence on the premises at all times and produce this Licence on request to any Authorised Officer of the Council or to any Constable for inspection.

13. The Licensee shall not permit or cause or suffer to be conveyed in Private Hire Vehicle a greater number of persons than that specified in the current Private Hire Vehicle Licence in respect of that vehicle.
14. The Licensee shall keep clean and in good state of decoration and repair, adequately heated, ventilated and lit any premises which they provide and to which the public have access whether for the purpose of booking or waiting; shall ensure that the waiting area has adequate seating facilities and that such facilities and any other furnishings provided are in good state of repair and shall ensure the appropriate fire precautionary equipment is provided, properly maintained and kept in an accessible location.
15. The Licensed Operator is to ensure that the drivers to whom he/she distributes private hire work are Licensed by the Council by:-
 - (a) checking the status of their Licence with the Licensing Manager
 - (b) keeping a true copy of the drivers licence
16. The Licensee shall display this licence on the premises at all times and produce this Licence on request to any Authorised Officer of the Council or to any Constable for inspection.
17. The Licensed Operator is to be directly concerned in the day to day management of the business and is to ensure that all conditions listed above are adhered to.

Appendix 3

Standard Conditions for a Hackney Carriage Vehicle Licence

1. The licensed vehicle must be fitted with a separate secure luggage area which is suitable for carrying at least two pieces of luggage. The minimum dimensions for each piece of luggage are 700mm x 550mm x 200mm.
2. If during the period of this licence the appearance or design of the licensed vehicle is to be altered then prior written consent of the council to such an alteration must be obtained.
3. The proprietor of the licensed vehicle shall:
 - (a) keep the interior and the exterior of the vehicle clean and free from damage in line with the Two Part Test criteria
 - (b) ensure that the vehicle is fitted with windows that open or has appropriate ventilation in good working order
 - (c) provide and maintain in the vehicle an efficient fire extinguisher which should be readily available for use at all times
 - (d) permanently mark the fire extinguisher with the registration number of the vehicle
 - (e) provide and maintain in the licensed vehicle a first aid kit which complies with the guidance in the Vehicle Licensing Criteria.
4. The proprietor of the vehicle shall ensure that the taximeter is so constructed, attached and maintained as to comply with the following requirements:
 - (a) the taximeter shall be fitted with such device which will start the taximeter and will cause the word "hired" to be displayed to passengers
 - (b) when the taximeter is turned on the fare on the taximeter should be clearly visible to passengers
 - (c) the taximeter and all the fittings thereof shall be so affixed to the vehicle with seals or other appliances so that it shall not be practical for any person to tamper with them
 - (d) the proprietor shall not permit any person to tamper with any of the seals on the taximeter unless authorised to do so by the Licensing Manager
 - (e) the proprietor shall notify the Council immediately if the seals on the taximeter are broken
5. The proprietor of the licensed vehicle shall provide a taximeter in the vehicle and shall clearly display the statement of maximum fares that has been provided by the Council and ensure that it is clearly legible.
6. On each occasion that the vehicle is hired the driver/proprietor shall ensure that the meter is turned on at the commencement of the journey. The driver/proprietor may charge less than the fare shown on the meter but not

more. This includes any hiring which takes place after a fare has been agreed in advance even if the quoted fare is less than the metered fare would be.

7. The external plate issued by the Council shall state the Hackney Carriage vehicle licence number, the maximum number of passengers which the Council has licensed the vehicle to carry and must be fixed to the rear of the vehicle. All newly issued Taunton Deane Borough Council vehicle plates must be fixed on the rear of the vehicle. Where practicable the plate must be visible when the boot is in an upright position, and preferably low down on the extreme right or left hand side of the vehicle. The plate must not protrude below the bottom edge of the bumper of the vehicle and not be placed in the rear window of the vehicle. An internal plate issued by the Council, stating the plate number of the vehicle and the vehicle registration, shall be fixed to the interior of the vehicle so as to be clearly seen by passengers to the satisfaction of the Council.
8. Notwithstanding section 58 of the Local Government (Miscellaneous Provisions) Act 1976 the Proprietor of the vehicle shall remove and return to the Council within two working days, except where written permission has been given by the Licensing Manager to extend this time, the plates referred to in 7 above:-
 - (a) when the vehicle ceases to be a licensed vehicle
 - (b) when the licence is revoked or suspended by the Council including suspension and revocation under section 60 and 68 of the above Act
9. If the plates referred to in paragraph 7 above are not returned in accordance with paragraph 8 then they may be removed by an Authorised Officer of the Council or a Constable.
10. In the event that the plate is damaged lost or stolen the proprietor shall notify the Council immediately and pay the Council the relevant fee for a replacement.
11. If the vehicle is suspended or the licence is revoked and the plates are subsequently damaged on removal by an Authorised Officer or Constable the proprietor shall then pay the requisite fee for the replacement of the plates, if necessary.
12. The proprietor of the licensed vehicle shall ensure that the vehicle is insured for the carriage of passengers for hire and reward at all times.
13. The proprietor and or the driver of the vehicle shall not permit cause or suffer a greater number of passengers to be conveyed in the vehicle than that specified in the licence.
14. The proprietor of the licensed vehicle that has sustained *damage in any accident (or by any other means) shall without prejudice to the provisions and obligations of the Road Traffic Act and section 50(3) Local Government (Miscellaneous Provisions) Act 1976:

- (a) notify the council in writing of such damage as soon as reasonably practicable and in any case within 72 hours of the occurrence.
- (b) submit the licensed vehicle to the Council's Licensing Manager within 72 hours.
- (c) not permit any passenger or member of the public to be conveyed in the vehicle unless and until the Council's Licensing Manager is satisfied that it may be so used.

*damage – is any damage to the vehicle that would cause the vehicle to fail the Two Part Test.

15. The proprietor of the licensed vehicle shall ensure that the vehicle is at all times driven by a person who holds a valid Hackney Carriage Drivers Licence issued by the Council.
16. If the vehicle is to be used for the conveyance of passengers in wheelchairs then the securing mechanism in the vehicle for the wheelchairs must be used so as to ensure the safety of the passenger at all times. Wheelchairs must only be carried forward or rearward facing.
17. The licensed vehicle shall be so designed that it shall:-
 - (a) provide at least two doors for the use of persons conveyed in such vehicle and a separate means of ingress and egress for the driver.
 - (b) provide seatbelts for all passengers.
 - (c) provide at least 16 inches/406mm of clear space per passenger seat (cushion width or bottom space) this measurement should be taken for the widest part of the seat per passenger.
 - (d) provide at least 9 inches/229mm of clear knee room per passenger, measured from the front portion of the passenger seat to the rear of the seat in front.
 - (e) provide adequate means of heating and ventilation for all passengers.
 - (f) provide drivers mirrors on the near and offside.
 - (g) not be a convertible/cabriolet type vehicle.
 - (h) be right hand drive only.
18. Where vehicles are required to be Wheelchair Accessible they must be a London type Taxi (Metrocab, TX1 or similar) or a vehicle that has been approved as a Taxi by the Council and shall be capable of conveying wheelchairs.
19. The proprietor must not refuse to accept a booking from a wheelchair bound passenger without reasonable excuse eg the wheelchair is not of a type or design suitable to be safely carried.
20. Any commercial advertising on the vehicle must have prior written approval of the Council's Licensing Manager.

21. The licence holder shall keep the vehicle, as is reasonably practicable, in a clean and tidy condition at all times.
22. The licence holder shall ensure that there are no apparent defects to the vehicle and that the vehicle is fit to be used for gain.
23. The vehicle licence holder shall ensure that the vehicle is not equipped with any scanning equipment.
24. If a vehicle is to be a licensed hackney carriage vehicle for the first time it must be no older than seven years from the date of first registration.
25. If a licensed hackney carriage vehicle is to be replaced, it must be replaced with a vehicle no older than seven years from the date of first registration.
26. Specialist and novelty vehicles or vehicles that have been subject to extensive modification for Disabled Access purposes, will not need to comply with the above conditions. Each vehicle will be considered on individual application to the Licensing Manager.
27. All vehicles must comply with Taunton Deane Borough Council Vehicle Licensing Conditions at all times during the period of the licence.

Terms used in these conditions are as follows:-

“the Council”	Taunton Deane Borough Council.
“Driver”	Any Hackney Carriage or Private Hire driver licensed with the Council.
“Authorised Officer”	Any Officer of the Council authorised for the purposes of these conditions.
“Constable”	Any Police Officer authorised for the purposes of these conditions.
“Vehicle”	A licensed hackney carriage vehicle with this Council (vehicle includes interior, exterior and engine bay).
“Proprietor”	The owner or, in relation to a vehicle which is the subject of a hiring agreement or hire purchase or purchase agreement, the person in possession of the vehicle under that agreement.
“Plates”	Means the plates issued by the Council for the purposes of identifying the vehicle as a vehicle licensed with the Council.

Appendix 4

Standard Conditions for a Private Hire Vehicle Licence

1.
 - (a) a licensed vehicle may not be a London type taxi (TX1 and Metrocab)
 - (b) or of such a design an appearance as to lead any person to believe that the vehicle is a Hackney Carriage.
2. If the licensed vehicle is hatchback or estate or minibus it must be fitted with a boot cover or guard rail to separate the rear luggage area from the passengers to the approval of the Council.
3. If during the period of this licence the appearance or design of the licensed vehicle is to be altered then prior written consent of the Council to such an alteration must be obtained.
4. The Proprietor of the licensed vehicle shall:
 - (a) keep the interior and the exterior of the vehicle clean and free from damage inline with the Two Part Test criteria.
 - (b) ensure that the vehicle is fitted with windows that open or has appropriate ventilation in good working order.
 - (c) provide and maintain an efficient fire extinguisher in the licensed vehicle which should be readily available for use at all times.
 - (d) permanently mark the fire extinguisher with the registration number of the vehicle.
 - (e) provide and maintain in the licensed vehicle a first aid kit that which complies with the guidance in the Vehicle Licensing Criteria.
5. If the licensed vehicle is provided with a taximeter the Proprietor of the vehicle shall ensure that it constructed, attached and maintained as to comply with the following requirements:
 - (a) the taximeter shall be fitted with such device which will start the taximeter and will cause the word "hired" to be displayed to passengers.
 - (b) when the taximeter is turned on the fare on the taximeter should be clearly visible to passengers.
 - (c) the taximeter and all the fittings thereof shall be so affixed to the vehicle with seals or other appliances so that it shall not be practical for any person to tamper with them.
 - (d) the proprietor shall not permit any person to tamper with any of the seals on the taximeter unless authorised to do so by the Licensing Manager.
 - (e) the proprietor shall notify the Council immediately if the seals on the taximeter are broken.
6. If the licensed vehicle is provided with a taximeter the proprietor of the vehicle shall:

- (a) produce a statement, in a form approved by the Council, of the fare rate on which the fare recorded on the face of the taximeter is based.
 - (b) display the statement referred to in 6a above on the inside of the vehicle so that it is clearly visible and legible to passengers, to the approval of the Council.
- 7. The external plate issued by the Council shall state the Private Hire Vehicle licence number, the maximum number of passengers which the Council has licensed the vehicle to carry and must be fixed on the rear of the vehicle. All newly issued Taunton Deane Borough Council vehicle plates must be fixed on the rear of the vehicle. Where practicable the plate must be visible when the boot is in an upright position, and preferably low down on the extreme right or left hand side of the vehicle. The plate must not protrude below the bottom edge of the bumper of the vehicle and not be placed in the rear window of the vehicle. An internal plate issued by the Council, stating the plate number of the vehicle and the vehicle registration, shall be fixed to the interior of the vehicle so as to be clearly seen by passengers to the satisfaction of the Council.
- 8. The proprietor of a Private Hire vehicle shall display the Private Hire vehicle plates issued by the Council at all times unless the vehicle has the benefit of an exemption to display the external plate.
- 9. Notwithstanding section 58 of the Local Government (Miscellaneous Provisions) Act 1976 the Proprietor of the vehicle shall remove the plates referred to in 7 above and return to the Council within two working days, except where written permission has been given by the Licensing Manager to extend this time:
 - (a) when the vehicle ceases to be a licensed vehicle.
 - (b) when the licence is revoked or suspended by the Council including suspension and revocation under section 60 and 68 of the above Act.
- 10. If the plates referred to in paragraph 7 above are not returned in accordance with paragraph 9 then they may be removed by an Authorised Officer of the Council or a Constable.
- 11. In the event that the plate is damaged lost or stolen the proprietor shall notify the Council immediately and pay the Council the relevant fee for a replacement.
- 12. If the vehicle is suspended or the licence is revoked and the plates are subsequently damaged on removal by an Authorised Officer or Constable the proprietor shall then pay the requisite fee for the replacement of the plates, if necessary.
- 13. No commercial advertising is allowed on Private Hire Vehicles, the only advertising allowed on Private Hire Vehicles shall comply with the following requirements:

- (a) signs must not be magnetic, the lettering must be of the same size and font for all wording and
 - (b) they are a maximum size of 450mm by 450mm and a minimum of 300mm by 300mm, the signs must contain the words "Private Hire vehicle" and "Advance Bookings Only". The sign may include the firms' telephone number and the firms' name, the firms' name may not include the words "Taxi" and/or "Cab". No other words are to be allowed; and
 - (c) they are to the approval of the Licensing Manager.
14. Subject to condition 13 no advertisement sign or light may be placed inside or outside the licensed vehicle that is not required by law or by these conditions. Exceptions to this condition will only be by prior written approval of the Licensing Manager.
15. The proprietor of the licensed vehicle shall ensure that the vehicle is insured for the carriage of passengers for hire and reward at all times.
16. The proprietor and or the driver of the vehicle shall not permit cause or suffer a greater number of passengers to be conveyed in the vehicle than specified in the licence.
17. The proprietor of the licensed vehicle which has sustained *damage in any accident (or by any other means) shall without prejudice to the provisions an obligations of the Road Traffic Act and section 50(3) Local Government (Miscellaneous Provisions) Act 1976:
- (a) notify the council in writing of such damage as soon as reasonably practicable and in any case within 72 hours of the occurrence.
 - (b) submit the licensed vehicle to the Council's Licensing Manager within 72 hours.
 - (c) not permit any passenger or member of the public to be conveyed in the vehicle unless and until the Council's Licensing Manager is satisfied that it may be so used.
- *damage is any damage to the vehicle that would cause the vehicle to fail the Two Part Test
18. The proprietor of the licensed vehicle shall ensure that the vehicle is at all times:-
- (a) operated by a person who holds a valid Private Hire Operators Licence issued by the Council.
 - (b) driven by a person who holds a valid Private Hire Drivers Licence issued by the Council.

19. If the vehicle is to be used for the conveyance of passengers in wheelchairs then the securing mechanism in the vehicle for the wheelchairs must be used so as to ensure the safety of the passenger at all times. Wheelchairs must only be carried forward or rearward facing.
20. The licensed vehicle shall be so designed that it shall:-
 - (a) provide at least two doors for the use of persons conveyed in such vehicle and a separate means of ingress and egress for the driver.
 - (b) provide seatbelts for all passengers.
 - (c) provide at least 16inches/406mm of clear space per passenger seat (cushion width or bottom space) this measurement should be taken for the widest part of the seat per passenger .
 - (d) provide at least 9inches/229mm of clear knee room per passenger, measured from the front portion of the passenger seat to the rear of the seat in front.
 - (e) provide adequate means of heating and ventilation for all passengers.
 - (f) shall be capable of carrying a reasonable quantity of luggage which must be to the satisfaction of the Council.
 - (g) provide drivers mirrors on the near and offside.
 - (h) not be a convertible/cabriolet type vehicle.
 - (i) be right hand drive only.
21. The vehicle licence holder shall keep the vehicle, as is reasonably practicable, in a clean and tidy condition at all times.
22. The licence holder shall ensure that there are no apparent defects to the vehicle and that the vehicle is fit to be used for gain.
23. The vehicle licence holder shall ensure that the vehicle is not equipped with any scanning equipment.
24. If a vehicle is to be a licensed Private Hire vehicle for the first time it must be no older than seven years from the date of first registration.
25. If a licensed Private Hire vehicle is to be replaced, it must be replaced with a vehicle no older than seven years from the date of first registration.
26. Specialist and novelty vehicles or vehicles that have been subject to extensive modification for Disabled Access purposes, will not need to comply with the above conditions. Each vehicle will be considered on individual application to the Licensing Manager.
27. All vehicles must comply with Taunton Deane Borough Council Vehicle Licensing Criteria at all times during the period of the vehicle licence.

Terms used in these conditions are as follows:-

“the Council” -	Taunton Deane Borough Council
“Driver” -	Any Hackney Carriage or Private Hire driver licensed with the Council
“Authorised Officer”-	Any Officer of the Council authorised for the purposes of these conditions
“Constable”-	Any Police Officer authorised for the purposes of these conditions
“Vehicle”-	A licensed Private Hire vehicle with this Council (vehicle includes interior, exterior and engine bay)
“Proprietor” -	The owner or, in relation to a vehicle which is the subject of a hiring agreement or hire purchase or purchase agreement, the person in possession of the vehicle under that agreement
“Plates”-	Means the plates issued by the Council for the purposes of identifying the vehicle as a vehicle licensed with the Council

Appendix 5

Hackney Carriage and Private Hire vehicles: Plate test for motorised vehicles

1. The whole exterior of the vehicle must be adequately maintained and clean, to allow for identification, visual amenity and the protection of other's property;
2. The interior of the vehicle must be safe for all classes of the public;
3. Passenger seats must be a minimum of 406mm in width. In addition, there must be a minimum of 229mm of clear knee space, measured from the front portion of the passenger seat to the surface in front;
4. Where adjustable windows are installed, they must be capable of use by passengers to ensure comfort and safety;
5. An appropriate number of interior lights must be fitted to ensure passenger comfort and safety;
6. Any upholstery must be undamaged and unblemished for comfort, safety and visual amenity;
7. Carpet or floor covering must be secure to promote the safety of passengers;
8. The boot or luggage area of the vehicle must be clean and dry to ensure the protection of customer property and for visual amenity;
9. The boot or luggage area of the vehicle must be adequately equipped to ensure the safe and secure transportation of luggage;
10. Front and rear window demisters must be in good working order to enable the driver to maintain a good level of vision and awareness of the road at all times;
11. The Council issued vehicle internal identification sticker must be displayed so that it is clearly visible to all passengers;
12. The Council issued vehicle licence plate must be fixed so that, where practicable, it is visible when the boot is in an upright position. The plate must also not extend below the bumper line and must not be placed in the rear window of the vehicle;
13. All tyres fitted must be appropriate for the type of vehicle;
14. The vehicle must carry a fire extinguisher that meets the BS EN3 standard and bears the British Standard kitemark. It must be fitted with a seal to verify that it has not been used, permanently marked with the vehicle registration number and securely fixed in a easily accessible position;

15. Where a vehicle is fitted with a meter:
- (a) It must be fitted so as to be visible to all passengers and;
 - (b) A current Council tariff card must be displayed so that it is clearly visible to all passengers;
16. The vehicle must carry a first aid kit which is fixed in an easily accessible position and;
- (a) Contains at least one of each of the following items:
 - Eye pad
 - Triangle bandage
 - Cleansing wipe
 - Powder free gloves
 - Conforming bandage
 - Wash proof plaster
 - (b) Where applicable, the items listed above must not be beyond their expiry date.
17. Doors must be capable of being secured in an open position to ensure passenger safety;

Wheelchair accessible vehicles

18. The vehicle must be equipped with a system that enables and promotes the safe, secure and comfortable boarding, conveyance and alighting of wheelchair bound passengers in accordance with the Hackney Carriage and Private Hire National Inspection Standards.

Overall judgment of inspector

19. At the time of the vehicle being tested, it must, in the inspector's opinion, be capable of withstanding the demands of operating as a licensed vehicle for the period of a year and therefore fit to be licensed as a Hackney Carriage or Private Hire vehicle.

Appendix 6

Application procedure for licensing brand new vehicles

Where an operator wishes to license a brand new vehicle, the application will begin to be processed by Licensing on receipt of the following documents as a single application:

- Completed application form;
- Valid insurance certificate or insurance cover note;
- V5 Logbook or bill of sale (stating the vehicle registration number, make, model, colour, date of registration and name of person licensing the vehicle);
- Payment of full licence fee (plus meter test fee where appropriate);

The applicant will be issued the licence and plate within 14 days after the application is made, provided the MOT and Plate Test certificates have been submitted.

Applicants should be aware that the licence and plate duration (one year) will start once they are issued and will not be re-dated if the vehicle fails the Plate Test.

A brand new vehicle is defined as one that has delivery mileage only. In addition, the applicant must be the first registered keeper.

Appendix 7

Other useful information

VAT for Taxis and Private Hire vehicles

VAT is a tax that is charged on most goods and services in the United Kingdom. Information on how this applies to members of the taxi and private hire trade can be found on the HM Revenue and Customs website:

http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?nfpb=true&pageLabel=pageVAT_ShowContent&id=HMCE_CL_000870&propertyType=document#downloadopt

Private Hire vehicles using bus routes

Section 53 of the Local Transport Act 2008 allows Private Hire Vehicle owners to use their vehicles to run local bus services. The Department for Transport have published a helpful leaflet which you can view online:

<http://webarchive.nationalarchives.gov.uk/20111005180314/http://assets.dft.gov.uk/publications/phv-getting-started/phv-getting-started-report.pdf>

Appendix 8

Glossary

Terms used in the above conditions are as follows:-

The Council	Means Taunton Deane Borough Council.
Driver	Means any Hackney Carriage/Private Hire Driver licensed with this Council.
Authorised Officer	Means any Officer of the Council authorised for the purposes of these condition.
Constable	Means and Police Officer authorised for the purposes of these conditions.
Vehicle	Means a licensed Hackney Carriage Vehicle with this Council (vehicle includes interior, exterior and engine bay).
Proprietor	Means owner or in relation to a vehicle which is the subject of a hiring agreement or hire purchase – purchase agreement, means the person in possession of the vehicle under that agreement.
Plates	Means the plates issued by the Council for the purposes of identifying the vehicle as a vehicle licensed with this Council.
Licensee	Means a licensed Hackney Carriage/Private Hire Driver.
Police Officer	Means any Police Officer authorised for the purposes of these conditions.
Road	Means any highway and any other road to which the public has access and includes bridges over which a road passes.
Wireless telegraphy	Has the meaning assigned to it in Section 19 of the Wireless Telegraphy Act, 1949.

Appendix 2

List of DVLA driving licence endorsements

Each endorsement is represented by a special code and is given 'penalty points' on a scale from 1 to 11. More points are allocated for more serious offences.

The table shows the offence codes that can be put on a driving record. It also shows how many penalty points a person can get for them. Some offences may also involve a disqualification.

Offence codes and penalty points stay on a person's driving record for 4 or 11 years, depending on the offence.

Code	Offence	Penalty points	Period before 'spent'
AC10	Failing to stop after an accident	5 to 10	4 years
AC20	Failing to give particulars or report an accident within 24 hours	5 to 10	4 years
AC30	Failing to give particulars or report an accident within 24 hours	4 to 9	4 years
BA10	Driving while disqualified by order of court	6	4 years
BA30	Attempting to drive while disqualified by order of court	6	4 years
BA40	Causing death by driving while disqualified	3 to 11	4 years
BA50	Causing serious injury by driving while disqualified	3 to 11	4 years
CD10	Driving without due care and attention	3 to 9	4 years
CD20	Driving without reasonable consideration for other road users	3 to 9	4 years
CD30	Driving without due care and attention or without reasonable consideration for other road users	3 to 9	4 years
CD40	Causing death through careless driving when unfit through drink	3 to 11	11 years
CD50	Causing death by careless driving when unfit through drugs	3 to 11	11 years
CD60	Causing death by careless driving with alcohol level above the limit	3 to 11	11 years
CD70	Causing death by careless driving then failing to supply a specimen for alcohol analysis	3 to 11	11 years
CD80	Causing death by careless, or inconsiderate, driving	3 to 11	11 years
CD90	Causing death by driving: unlicensed, disqualified or uninsured drivers	3 to 11	11 years
CU10	Using a vehicle with defective brakes	3	4 years
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or	3	4 years

	accessories (excluding brakes, steering or tyres) in a dangerous condition		
CU30	Using a vehicle with defective tyre(s)	3	4 years
CU40	Using a vehicle with defective steering	3	4 years
CU50	Causing or likely to cause danger by reason of load or passengers	3	4 years
CU80	Breach of requirements as to control of the vehicle, such as using a mobile phone	3 to 6	4 years
DD10	Causing serious injury by dangerous driving	3 to 11	4 years
DD40	Dangerous driving	3 to 11	4 years
DD60	Manslaughter or culpable homicide while driving a vehicle	3 to 11	4 years
DD80	Causing death by dangerous driving	3 to 11	4 years
DD90	Furious driving	3 to 9	4 years
DR10	Driving or attempting to drive with alcohol level above limit	3 to 11	11 years
DR20	Driving or attempting to drive while unfit through drink	3 to 11	11 years
DR30	Driving or attempting to drive then failing to supply a specimen for analysis	3 to 11	11 years
DR31	Driving or attempting to drive then refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity	3 to 11	11 years
DR61	Refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity in circumstances other than driving or attempting to drive	10	11 years
DR40	In charge of a vehicle while alcohol level above limit	10	4 years
DR50	In charge of a vehicle while unfit through drink	10	4 years
DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive	10	4 years
DR70	Failing to provide specimen for breath test	4	4 years
DG10	Driving or attempting to drive with drug level above the specified limit	3 to 11	11 years
DG60	Causing death by careless driving with drug level above the limit	3 to 11	11 years
DR80	Driving or attempting to drive when unfit through drugs	3 to 11	11 years
DG40	In charge of a vehicle while drug level above specified limit	10	4 years
DR90	In charge of a vehicle when unfit through drugs	10	4 years
IN10	Using a vehicle uninsured against third party risks	6 to 8	4 years
LC20	Driving otherwise than in accordance with a licence	3 to 6	4 years
LC30	Driving after making a false declaration about fitness when applying for a licence	3 to 6	4 years
LC40	Driving a vehicle having failed to notify a disability	3 to 6	4 years

LC50	Driving after a licence has been revoked or refused on medical grounds	3 to 6	4 years
MS10	Leaving a vehicle in a dangerous position	3	4 years
MS20	Unlawful pillion riding	3	4 years
MS30	Play street offences	2	4 years
MS50	Motor racing on the highway	3 to 11	4 years
MS60	Offences not covered by other codes (including offences relating to breach of requirements as to control of vehicle)	3	4 years
MS70	Driving with uncorrected defective eyesight	3	4 years
MS80	Refusing to submit to an eyesight test	3	4 years
MS90	Failure to give information as to identity of driver etc	6	4 years
MW10	Contravention of special roads regulations (excluding speed limits)	3	4 years
PC10	Undefined contravention of pedestrian crossing regulations	3	4 years
PC20	Contravention of pedestrian crossing regulations with moving vehicle	3	4 years
PC30	Contravention of pedestrian crossing regulations with stationary vehicle	3	4 years
SP10	Exceeding goods vehicle speed limits	3 to 6	4 years
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)	3 to 6	4 years
SP30	Exceeding statutory speed limit on a public road	3 to 6	4 years
SP40	Exceeding passenger vehicle speed limit	3 to 6	4 years
SP50	Exceeding speed limit on a motorway	3 to 6	4 years
TS10	Failing to comply with traffic light signals	3	4 years
TS20	Failing to comply with double white lines	3	4 years
TS30	Failing to comply with 'stop' sign	3	4 years
TS40	Failing to comply with direction of a constable/warden	3	4 years
TS50	Failing to comply with traffic sign (excluding 'stop' signs, traffic lights or double white lines)	3	4 years
TS60	Failing to comply with a school crossing patrol sign	3	4 years
TS70	Undefined failure to comply with a traffic direction sign	3	4 years
TT99	Disqualification under 'totting up' where driver has accumulated 12 or more points within 3 years	N/A	4 years
UT50	Aggravated taking of a vehicle	3 to 11	4 years

Taunton Deane Borough Council

Licensing Committee – 13th June 2017

Background checks for hackney carriage and private hire vehicle drivers and would be drivers who specifically have lived outside of the UK

This matter is the responsibility of Executive Councillor Patrick Berry

Report Author: Alison Evens, Licensing Officer

1 Executive Summary

- 1.1 Members are asked to consider the hackney carriage and private hire licensing regime for drivers within Taunton Deane and the recommendations set out at section 2 of the report with regard to replacing the current policy in respect of background checks for those applying for the grant or renewal of a hackney carriage/private hire drivers licence that have lived outside of the UK, at any point, since the age of ten.

2 Recommendations

- 2.1 That members approve a proposal to replace the Councils current policy, as shown in appendix A, with the updated policy shown at appendix B
- 2.2 That members agree for this new policy to be applied to all grant applications with immediate effect and to come into effect from 1st January 2018 for existing drivers, to allow time for the necessary paperwork to be obtained.

3 Risk Assessment (if appropriate)

Risk Matrix

Description	Likelihood	Impact	Overall
Members of the public are exposed to harm by being transported by drivers who have not had thorough background checks	3	4	12
The Licensing Authority fail to identify convictions that applicants / licence holders have attained whilst living outside of the UK.	5	4	20

Risk Scoring Matrix

Likelihood	5	Almost Certain	Low (5)	Medium (10)	High (15)	Very High (20)	Very High (25)
	4	Likely	Low (4)	Medium (8)	Medium (12)	High (16)	Very High (20)
	3	Possible	Low (3)	Low (6)	Medium (9)	Medium (12)	High (15)
	2	Unlikely	Low (2)	Low (4)	Low (6)	Medium (8)	Medium (10)
	1	Rare	Low (1)	Low (2)	Low (3)	Low (4)	Low (5)
			1	2	3	4	5
			Negligible	Minor	Moderate	Major	Catastrophic
			Impact				

Likelihood of risk occurring	Indicator	Description (chance of occurrence)
1. Very Unlikely	May occur in exceptional circumstances	< 10%
2. Slight	Is unlikely to, but could occur at some time	10 – 25%
3. Feasible	Fairly likely to occur at same time	25 – 50%
4. Likely	Likely to occur within the next 1-2 years, or occurs occasionally	50 – 75%
5. Very Likely	Regular occurrence (daily / weekly / monthly)	> 75%

4 Background and Full details of the Report

4.1 In accordance with the Local Government (Miscellaneous Provisions) Act 1976, a district council shall not grant a licence to a driver of a private hire vehicle or hackney carriage unless that council is satisfied that the applicant is a fit and proper person to hold a driver's licence.

Fitness and propriety is not legally defined and thus, the Council has the freedom to consider a wealth of criteria before reaching a decision. In reaching a decision, the Council also has the power to request from the applicant any information as is considered necessary to determine whether a licence can be granted and whether conditions should be attached to a licence. Broadly speaking, this includes assessment of health, background, attitude / demeanour. It is only when an officer is satisfied that the applicant is of good health, background and character that a recommendation is made to the Licensing Manager to grant the licence.

4.2 Due to the nature of the hackney carriage / private hire drivers' role, it is important that we check the background/history of each applicant in order to make an informed decision about granting them a licence, specifically whether they have any convictions,

cautions, reprimands or warnings. To establish if they have, that applicant applies to the Disclosure and Barring Service (DBS – formerly Criminal Records Bureau aka CRB) for an enhanced disclosure of convictions. It is Council policy that once licensed, the holder of the licence applies for a new enhanced disclosure. Please see appendix C for the Taunton Deane Licensing policy on DBS checks for hackney carriage/private hire vehicle drivers.

- 4.3 As stated in the Department for Transport's 'Taxi and private hire vehicle licensing: best practice guidance' – "the aim of the local authority licensing of the taxi and PHV trades is to protect the public"
- 4.3.1 "It is clearly important that somebody using a taxi or PHV to go home alone late at night should be confident that the driver does not have a criminal record for assault and that the vehicle is safe".
- 4.3.2 In essence, the requirement is that an applicant provides a certificate of good conduct (the equivalent to a DBS cert) from any country within which they have lived. When the Licensing team looked into creating a policy on certificates of good conduct, it was discovered that one already existed, but had not been implemented. Furthermore it was not comprehensive or clear enough to enforce with any conviction.
- 4.3.3 Up until recently the licensing team has not imposed the policy of the 'Private Hire and Hackney Carriage Drivers, Vehicles and Operators Handbook, (more commonly referred to as the 'Taxi handbook') to obtain background information from applicants who have lived outside of the UK. Introducing a more robust policy to gather background information from applicants that have lived outside of the UK for more than 6 months would ensure that the council are doing the best they can to protect the public.
- 4.4 It is recognised that while licensing seek to protect the public when making decisions on licensing of hackney carriage / private hire drivers, too restrictive an approach can work against public interest, by potentially creating barriers of entry to the trade and therefore restricting the numbers of drivers. This could in turn have unintended safety implications, such as insufficient licensed drivers to ensure passengers get home safely. Licensing would want to ensure that this policy is suitably justified and proportionate to the risks that we are wishing to address.
- 4.5 It is unlikely that introducing the proposed amendment to the policy would have an adverse effect on drivers applying to become a hackney carriage / private hire driver.
- 4.6 Although there may be cost implications for individual applicants in obtaining this information, this does not detract from the safety aspect that a more thorough background check would allow an officer to make a more informed decision with regard to issuing an applicant with a licence. Any costs that may be incurred by the applicant would be commensurate to the benefits of ensuring the safety of passengers.
- 4.7 Licensing consulted with members of the taxi and private hire trade on issues around background checks being carried out on applicants who have lived outside of the UK and attendees were broadly in support of this proposal. Notes from this forum are shown at appendix D, taking note of point 8. Some forum members were concerned that existing drivers would need notice to allow them time to obtain a certificate of good conduct and therefore, it is recommended to delay the implementation of the policy for renewal applications by 6 months.

4.8 The process of determining whether an applicant / licensed driver has lived outside of the UK for more than 6 months relies some part on honesty when they are completing the application forms. However if a driver was to lie about this on a form they would be making a false statement which, if discovered, would be looked upon unfavourably when making a decision on whether an applicant is to become a licensed driver.

4.9 As per the proposed policy shown at appendix B under 'Additional Requirements of certificates of good conduct' the documents will need to be 'authenticated/certified as a true and accurate record by the relevant embassy' this will assist with confirming the validity. Should there be any concerns, licensing officers would investigate further.

5 Links to Corporate Aims / Priorities

5.1 The purpose of licensing hackney carriage and private hire vehicles is to protect the public, which is one of the council's primary roles, as identified in the Corporate Strategy.

6 Finance / Resource Implications

6.1 None.

7 Legal Implications (if any)

7.1 The Local Government (Miscellaneous Provisions) Act 1976 states that, before the Council can grant or renew a licence to a hackney carriage/private hire vehicle driver or private hire operator, it must be satisfied that the applicant is a 'fit and proper person'. As 'Fitness and propriety' is not legally defined the Council has the freedom to consider a wealth of criteria before reaching a decision.

7.2 As detailed in point 4.1 & 4.2, it is important for the Licensing Authority to ensure they have possession of current and relevant information regarding applicants in order to make decisions affecting public safety.

8 Environmental Impact Implications (if any)

8.1 No environmental impact implications have been identified within this report.

9 Safeguarding and/or Community Safety Implications (if any)

9.1 Through effective regulation of hackney carriage and private hire vehicles and drivers, confidence in a safe public transport regime can be maintained aiding its continued use by vulnerable members of the community.

10 Equality and Diversity Implications (if any)

10.1 There are a number of protected characteristics identified in the Equality Act 2010, which are; age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation and members need to

demonstrate that they have consciously thought about the three aims of the Public Sector Equality Duty as part of the decision making process. The three aims the authority must have due regard for are:

- Eliminate discrimination, harassment, victimisation;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Public safety is paramount and licensing are carrying out thorough checks on all applicants, treating all applicants the same. There is requirement for more information to be provided by some applicants and the introduction and enforcement of a more robust policy could be perceived that the Council are making it more difficult for applicants that were born outside of the UK, however the reality is that this policy applies to all applicants that have lived outside of the UK for 6 months or more not just applicants who were born outside of the UK.

11 Social Value Implications (if any)

11.1 No social value implications identified.

12 Partnership Implications (if any)

12.1 No partnership implications were identified.

13 Health and Wellbeing Implications (if any)

13.1 None identified.

14 Asset Management Implications (if any)

14.1 None identified.

15 Consultation Implications (if any)

15.1 As explained within paragraph 4.5, members of the hackney carriage and private hire trade were consulted on the proposals at the meeting of the taxi and private hire trade forum.

16 Scrutiny Comments / Recommendation(s) (if any)

16.1 The purpose of the Licensing Committee is to act for the Council in respect of licensing and registration functions. The Committee's powers include the power to discharge licensing functions on behalf of the licensing authority, outside of the usual democratic process.

Democratic Path:

- **Scrutiny / Corporate Governance or Audit Committees – No**
- **Cabinet/Executive – No**
- **Full Council – No**

Reporting Frequency : Once only Ad-hoc Quarterly
 Twice-yearly Annually

List of Appendices (delete if not applicable)

Appendix A	Current policy on ‘Applicants from outside the UK’
Appendix B	Updated policy for ‘Background checks for applicants resident outside of the UK’
Appendix C	TDBC policy on DBS checks
Appendix D	Taxi Forum Notes - 24 th March 2016

Contact Officers

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Appendix A. Extract from the 'Private Hire and Hackney Carriage Drivers, Vehicles and Operators Handbook' – current policy.

2.3 Applicants from outside the UK

Drivers from the European Union on making an application must show their Passports or National Identity Card, equivalent CRB from their home countries (with appropriate translation), an EU driving licence and submit a recent medical conducted in the United Kingdom.

Applicants from outside the EU will be subject to an Immigration Status Check. The results of this check may take some time to be finalised and the applicant may not be permitted to work until it is concluded. The Immigration Status check may be done in advance of the applicant arriving in the United Kingdom providing documentation is sent to the Licensing Department at The Deane House, Belvedere Road, Taunton, TA1 1HE.

The Licensing Authority requires a five-year background check for all applicants, if an applicant has lived abroad for any period in the last five years or is from an EU member state or overseas then a certificate of good conduct authenticated and translated by the relevant embassy is required. The Criminal Records Bureau website (www.crb.gov.uk) gives more information about obtaining certificates of good conduct, or similar documents from a number of countries. More generally, the Home Office's Employers' Helpline (0845 010 6677) can be used to obtain general information on immigration documentation. Employers and the Licensing Authority are also able to obtain case specific immigration status information, including whether an applicant is permitted to work or details of work restrictions, from the Evidence and Enquiry Unit, Floor 12, Lunar House, Wellesley Road, Croydon CR9 2BY. Further details on procedures can be obtained from the unit on 020 8196 3011.

Appendix B. Updated policy for 'Background checks for applicants resident outside of the UK'

"The licensing authority recognises that a DBS disclosure will only give background details of any convictions, cautions etc. that were effected in the UK. It is therefore the policy of the licensing authority to require, where appropriate, a certificate of good conduct (or suitable equivalent document) from any applicant who has been resident in any country (other than the UK) for any length of time since the age of ten (i.e. the UK age of criminal liability) or, where appropriate, since any (pre)existing licence was granted.

For the purposes of this general policy requirement, the licensing authority will normally –

- (a) interpret the term 'resident in any country' in its widest possible meaning and to include any period other than work deployments or holidays less than 6 months duration or any period of service in HM armed forces.*
- (b) Require a certificate of good conduct (or suitable equivalent document) to be provided in respect of each country in which the applicant may have previously lived.*

NB: *The licensing authority notes that different countries and jurisdictions may recognise and use a different minimum age of criminal liability. Where appropriate, a statement of good conduct must reflect the relevant minimum age of criminal liability for the country concerned.*

Additional requirements of certificates of good conduct

To ensure authenticity, currency and efficiency of use, the licensing authority requires that certificates of good conduct (or suitable equivalent) be –

- (a) translated and submitted in written English;*
- (b) authenticated/certified as a true and accurate record by the relevant Embassy; and*
- (c) dated within 6 months of the date of submission or within a period otherwise considered appropriate in the circumstances.*

Relevance of certificates of good conduct

As it will otherwise be unable to satisfy itself of the applicant's propriety, the licensing authority will normally refuse any application for a hackney carriage and or/private hire driver's licence where the applicant fails to provide or obtain suitable and sufficient certificates of good conduct where these may be appropriate.

However, the licensing authority recognises that not all states or provinces can provide for certificates of good conduct. Therefore, in genuinely exceptional circumstances, the licensing authority may require alternative documentation (i.e. suitable equivalent documents) and/or seek to undertake alternative investigation of the propriety of the applicant."

Appendix C. Extract from the 'Private Hire and Hackney Carriage Drivers, Vehicles and Operators Handbook' - TDBC policy on DBS checks

2.7.1 Disclosure and Barring Service

Taunton Deane Borough Council, as the 'Licensing Authority' is able to make applications to the Disclosure and Barring Service (DBS) to check whether new or existing taxi drivers hold a criminal record.

The results of a DBS application will be required when an application is made for the grant of a Hackney Carriage and Private Hire vehicle driver's licence and then every three years thereafter. The results of DBS applications will only be accepted if applied for through Taunton Deane Borough Council or through Somerset County Council and providing the application was made in connection with work which may involve contact with children and vulnerable adults.

DBS application forms can be collected from Licensing and Planning Reception.

In order for a DBS application to be made, the applicant must fill out the DBS application form and make an appointment to see a Licensing Officer so that their identity can be checked. This is done by the Officer checking a number of identification documents which the applicant brings to the appointment.

When making an appointment, a member of the Licensing Team will explain the types of identification that are acceptable.

Following this appointment, the application is posted to the DBS. The results are sent directly to the applicant, normally within four to six weeks. It is then the responsibility of the applicant to submit the results document that they receive, to us so that we can make a decision. All Information that we receive is kept in the strictest confidence.

Where a DBS application is required when a taxi driver is renewing their licence, the driver is advised to submit a full renewal application (including DBS application) no later than six weeks before the expiry date of the licence.

This deadline date allows plenty of time for the DBS to process the application before the licence expires. In the event that the DBS results are not received before the licence expires, we are able to issue an extension to a licence.

Where the six week deadline is not met and the licence expires, the applicant will be unable to drive a licensed vehicle until the results have been received.

Taunton Deane Borough Council abides by the DBS code of practice.

Appendix D.

Meeting of the Taxi and Private Hire Forum

Meeting of 24 March 2016

18:00 to 19:30, Committee Room 1

Chair: John Rendell, Licensing Manager (JR)

Attendees:

Mark Banczyk-Gee, Licensing Officer (MB)

Cllr Gary James, Licensing Committee Vice-Chair (GJ)

Cllr Patrick Berry, Executive Member for Environmental Services and Climate Change (PB)

Mark Thomas Our Taxis (MT)

Sheila Thomas Our Taxis (STH)

John Bolton, Independent (JBO)

Jason Baxter, Independent (JBA)

Shane Wyatt, Independent (SW)

Martin Jones, Lightning Taxis/Mo's Taxis (MJ)

Seb Toon, TLC Taxis (STO)

1. Welcome and introductions;
2. Review of forum terms of reference (see attached document);
 - JR: forums original terms of reference have been revised and these were circulated in advance of the meeting.
 - Agreed by all
3. Introduction to the Council's guidance on Child Sex Exploitation for licensed drivers (see attached document);
 - JR: a guide for licensed drivers on recognising signs of CSE and how to report was circulated in advance of the meeting. This will become part of the policy, be developed into a pocket sized guide which all drivers will receive a copy of and be incorporated into the knowledge and suitability interview. Feedback was welcomed.
 - General discussion by all. No issues raised
4. Lost property Facebook page;
 - JR: It was raised at the last forum that the Police are unable to process lost property and the Police Station in Taunton is to close soon. It is a condition of every driver licence that lost property must be handed in to Taunton Police

Station. Suggested that, although TDBC does not have capacity to offer a lost property service, Licensing could set up a lost property 'community' page on Facebook. This would be a page that members of the public and drivers could 'like' to join. Licensing would be the administrators and agree rules for the page. It would work in so far as drivers would post on the page if they found property that hasn't been found in the check that must occur after the customer has left the vehicle (part of licence conditions). Driver could also post a photograph of item(s) if appropriate. Members of public would be signposted to Facebook page where they could also post on the page in the hope of contacting the driver who may have their property. Not perfect solution to the problem by any means but better than nothing!

- Pros and cons discussed at length around ownership and issues in respect of Facebook.
- MT - Asked who would monitor the page as this would be needed. Members of the public sometimes post inflammatory remarks about taxi drivers.
- MJ – Does not personally use Facebook but asked if he could ask other drivers to post information for him. JR confirmed this would be fine; the page would be voluntary but drivers would be encouraged to use it.
- JBA – gave an example of how a customer tracked the location of a lost phone using GPS.
- It was agreed that it was better than nothing but that more thought required before implementation. Forum asked to come back to next meeting with some management rules they would like to see in place.

5. Policy relating to incomplete applications;

- JR: The team seem to be wasting a lot of time handling incomplete applications, where information or documents are missing. This is time that could be better spent issuing licences, plates and badges and it can affect the cost of applications. Licensing will adopt a new policy as of the 1st of April whereby incomplete applications will be immediately sent back to the applicant by 2nd class mail unless a member of the team can complete the application by the end of the working day, through a telephone call or email.

Examples of things that the team would expect to correct the same working day:

- Payment (as phone call can be made);
- A box hasn't been ticked;
- A piece of written information is omitted.

Examples of things which we would expect not to be able to correct the same working day:

- A missing document e.g. V5 or MOT.
- A signature is missing from an application (forms cannot be signed by team)

- A DBS form is enclosed but the applicant has not had an appointment to check their ID.
 - STH: asked if the rule would apply only to postal applications. JR clarified it applies to any applications.
 - GJ: believes this approach is quite generous when compared with other government agencies such as the passport office.
 - The approach was, in general, supported.
6. Proposal to introduce a new element to the 'plate test' to ensure vehicle interiors are clean;
- JR: The Licensing Team have inspected a number of vehicles over the course of the past year with appallingly dirty interiors. It is proposed that the 'Plate test' be amended to incorporate a requirement for the interior of the vehicle to be kept clean. This would be something that an officer could check during an inspection and may potentially result in suspension of a vehicle licence. Officers believe this will help to drive up standards as not all operators take the cleanliness of their vehicles seriously. No definitive wording for the requirement has been drafted yet but it must be clear and easy to interpret. Those at the meeting were asked to discuss this proposal.
 - General discussion around the subject but supported by members of the trade at the meeting.
 - JR: Licensing will draft the wording of the criteria and circulate for comment.
 - SW: asked if drivers can use e-cigarettes/vape devices in taxis and made reference to a policy restricting this practice in Wales.
 - MT: questioned the relevancy of such a policy as there is no law against such practice.
 - JR: confirmed there is no law or Council policy against using e-cigarettes etc. in taxis and private hire vehicles but felt that this would look unprofessional none the less.
 - **Agreed to add to the agenda for the next meeting.**
7. An update from the last Licensing Committee meeting and reports presented (including any decisions made);
- JR: gave an update on the two reports presented to the Licensing Committee at its meeting on 2 March 2016, both of which were circulated to the trade prior to the committee meeting. A proposal to commission an unmet demand survey

has been approved by the committee. The second report acted as an update to members on discussions with the trade on ways to tackle VAT evasion amongst drivers and JR advised he will be meeting with HMRC on 29 March to progress.

- JBA: asked when survey will be carried out as last time it was before Christmas which is not a good time.
- JR: explained could be some time as quotes need to be got so possibly not until this time next year.

8. Proposal to require certificates of good conduct from applicants that have lived outside of the UK at any time, since the age of 10 years;

- JR: as discussed previously, current arrangements mean that Licensing cannot check an applicants background/criminal history for any period of time they may have spent living outside of the UK. Proposal is to amend policy so that a certificate of good conduct must be produced. The reason for there being a reference to '10 years of age' is because this is the age of criminal liability for the UK.
- STH: asked if this just for new applicants? Made reference to current drivers who have been driving for some years.
- JR: advised this would apply to applicants and existing drivers as some may not have had full background checks.
- PB: asked why not just for 10 years as he doubted the validity of anything dating further back.
- JR: personal feeling was that it was better to ask for full history as something could potentially be missed by introducing a limit on how far checks must go back.
- JBA: why not get Disclosure and Barring Service (DBS) checks for last 10 years?
- JR: advised that the DBS only checks Police records in the UK. Therefore there is no information available on anyone for a period where they may have lived outside of the UK which is clearly worrying.
- MJ: supported the idea of such a requirement as this would act as a deterrent to people who are not committed to working within the trade.
- MT: gave an example of a driver who was licensed by TDBC after having been rejected by North Devon Council. Asked how this might be possible.

- JR: advised that Councils will make their own decisions on applicants and Council policies may differ.
- STH: identified that DBS checks made by Somerset County Council are different to those done by TDBC and voiced concerns over the validity of the results/checks.
- JR: The DBS have responded to similar concerns raised by other operators in the County and this has been featured in a trade magazine which has been brought to Licensing's attention. A copy of this article (which explains the rationale behind the difference in checks) will be included with the meeting minutes.
- It was agreed a certificate of good conduct is a good idea.
- STH: identified that existing drivers would need at least 6 months' notice so that there is time to contact the relevant nations for certificates, if such a proposal was introduced.

9. Changes to the reception desks in Deane House;

- JR: From the 1st of April, the 'Licensing and Planning' reception desk will close, with those services being incorporated into the main reception desk. There will now be two receptionists at the main desk to cope with the additional demand. Members of staff will help customers to use the PC at the old desk, if necessary e.g. to generate DVLA check codes, except for where the applicant has an appointment with an officer.
- STH: asked if we were expecting an increase in errors.
- JR: explained that Licensing had been training the relevant customer services staff to reduce the risk.

10. Deregulation Act 2015;

- JR: clarified some changes introduced by the Act:
 - Just to make sure all aware that PH Operators can now sub contract bookings to other operators licensed by TDBC and those licensed by other districts. Link to relevant section: [Deregulation Act 2015](#).
 - The standard licence duration for drivers is now three years and for PH operators, five years. Before arrangements can be fully implemented, Licensing will look to align the requirements for DBS certificates and medicals with licence expiry dates so that the renewal process is much easier for drivers and Licensing. Licensing will look at adopting the DBS update service at the same time as this could also help to reduce paperwork. These changes are not likely to be implemented until 1st April 2017.

- MT: endorsed this, adding that no refunds should be given to those who may wish to give up driving part way through the period of a licence.
- JR: advised that the door to refunds cannot necessarily be closed.

11. Any other business.

- JR: the team met today to draft some geographical knowledge questions. These will be incorporated into the knowledge and suitability interview.
- STO: asked specific questions re. a complaint which was reported. This was not discussed as the terms of reference state forum not for discussing individual complaints.
- MT: asked whether the Deregulation Act was extending the standard duration of private hire vehicle licences. JR confirmed they were not changing.
- STH: is aware that Sedgemoor allow travel time to pick ups to be charged. Is this something that can be introduced in Taunton? Licensing to research.
- MJ: commented on the response Licensing received from Highways in respect of taxis using bus gates. JR to clarify who the response was made by: **response made by Steve Deakin, Parking Services Manager.**

Next meeting: Thursday 16th June.

Taunton Deane Borough Council

Licensing Committee – 13th June 2017

Street Trading

This matter is the responsibility of Executive Councillor Patrick Berry

Report Author: Fern Avis, Licensing Officer

1 Executive Summary

- 1.1 This report provides an overview of the street trading policy and procedure of the council's licensing service, as requested by members of the committee at the meeting on 22nd February 2017.

2 Recommendations

- 2.1 That the report be noted.

3 Risk Assessment

Risk Matrix

Description	Likelihood	Impact	Overall
If the Licensing function were not carried out in an efficient manner, complaints or legal challenges may be brought that could undermine the work being done to support the Council's Corporate Strategy.	4	4	16
Demonstrating good governance of the licensing function through presentation of current arrangements and statistics relating to the licensing service.	3	4	12

Risk Scoring Matrix

Likelihood	5	Almost Certain	Low (5)	Medium (10)	High (15)	Very High (20)	Very High (25)
	4	Likely	Low (4)	Medium (8)	Medium (12)	High (16)	Very High (20)
	3	Possible	Low (3)	Low (6)	Medium (9)	Medium (12)	High (15)
	2	Unlikely	Low (2)	Low (4)	Low (6)	Medium (8)	Medium (10)
	1	Rare	Low (1)	Low (2)	Low (3)	Low (4)	Low (5)
			1	2	3	4	5
			Negligible	Minor	Moderate	Major	Catastrophic
			Impact				

Likelihood of risk occurring	Indicator	Description (chance of occurrence)
1. Very Unlikely	May occur in exceptional circumstances	< 10%
2. Slight	Is unlikely to, but could occur at some time	10 – 25%
3. Feasible	Fairly likely to occur at same time	25 – 50%
4. Likely	Likely to occur within the next 1-2 years, or occurs occasionally	50 – 75%
5. Very Likely	Regular occurrence (daily / weekly / monthly)	> 75%

4 Background and Full details of the Report

What is street trading?

- 4.1 Street trading means the selling, or exposing or offering for sale, of any article (including a living thing) in a street. A street for the purposes of this definition includes any road, highway, footway, beach or other area to which the public have access without payment. Street trading is an activity that requires consent or a licence from the relevant local authority, if that authority has adopted schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. Please see appendix A for a copy of this schedule. Taunton Deane Borough Council adopted schedule 4 of the Act at a meeting of Full Council on the 10th of December 1985 and designated all 'streets' in the borough as 'consent streets' in the process, meaning that street trading is prohibited in those areas without consent from the Council. Under these arrangements, the Council currently authorises trading from public land, such as market traders on Taunton High Street as well as trading on private land, such as catering units on industrial estates. The purpose of this regulation is to prevent obstructions on land, danger, nuisance or annoyance.

- 4.2 Taunton Deane Borough Council issues Street Trader Consents rather than Licences. The difference between a licence and a consent relates to the level of formal procedure involved and legal protection offered to the trader. Generally a licence is more suitable for a fixed, market-type trading environment. Consents provide a more flexible means of controlling street trade and are not limited by statute in their refusal or revocation.

Differences between licence and consent for street trade:

Licence	Consent
1. District council obliged to grant a licence unless the application ought to be refused on one or more of the grounds specified in the Act.	District council under no duty to grant a street trading consent and need not specify statutory grounds for refusal.
2. District council may only revoke or refuse to renew a licence on statutory grounds.	No statutory limitation on a district council's power to revoke or refuse to renew a street trading consent.
3. Statutory grounds of appeal against the refusal, revocation or variation of a principal term of a street trading licence are contained in the Act.	There is no similar right of appeal against the refusal to grant or renew a consent or against the revocation or variation of a consent.

Application Process

- 4.3 The application form for traders is available from the Council, please see appendix B. There is also a list of Street Trading Consent Conditions, please see appendix C.
- 4.4 The applicant must complete the application form, enclose photographs of their stall, proof of Public Liability Insurance and pay the relevant fee, which is dependent on the length of time the consent is valid. For the list of fees, please see appendix D. Once a complete application has been received, the forms are scanned and saved against a record on the service database.
- 4.5 Before a Street Trading Consent can be granted or renewed, the Council will consult with various persons and organisations which may include the following:
- Somerset County Council Highways Authority
 - Avon and Somerset Constabulary
 - Taunton Deane Borough Council Environmental Health
 - Taunton Deane Borough Council Economic Development Team
 - Devon and Somerset Fire Service

- 4.6 If the proposed street trading site is on private land, a letter from the land owner giving permission for it to be used for street trading must be included with the application. The consultation period with the above organisations and persons will be a maximum of 28 days from the date of a complete application being made to the Council. If an objection is received from any of the above consultees, the Council will attempt to mediate between the parties. If no agreement can be reached the Council would normally refuse to grant the application.
- 4.7 There is no set policy for dealing with complaints received about street traders, whether they are authorised or not. They are recorded on the service database, allocated to a Licensing Officer, who then makes relevant enquiries. This will usually involve interviewing the subject of the complaint. A decision on how to proceed can then be made. There are various possible outcomes including; no further action, action to be taken by the Licensing Manager or that the complaint is referred to the Licensing Committee in the form of a hearing. Any complaint is dealt with on its own merits.

Consents currently in force

- 4.8 There are currently 21 consents in force, which authorise:
- 2 regular markets;
 - 11 traders within the town centre of Taunton;
 - 2 traders who are mobile within the district and visit various sites;
 - 5 traders who occupy pitches on private land, such as an industrial estate;
 - 1 trader who has permission to trade within council owned public spaces, such as Vivary Park.

Policy

- 4.9 Attached at appendix E is the councils current street trading policy document, which was first implemented in December 2012. Prior to that date, there had been no formal policy at all.
- 4.9 The policy was created in order to set out clearly the councils expected standards and approach to determining relevant applications and enforcement. As with all other policies and procedures, the intention was that it would be periodically reviewed to ensure its relevance however, the only revision and amendment since its implementation was, as members will recall, the inclusion of an exemption for itinerant traders. The proposal to exempt itinerant traders from having to be formally authorised was the subject of a report to the committee at its meeting on the 22nd of February 2017, where it was approved.
- 4.10 Officers feel the policy is in need of, at the very least, an update to ensure that current practice is reflected and that all of the information is correct which, at present, it is not and this will be clear to members when read as there are glaring errors.

5 Links to Corporate Aims / Priorities

- 5.1 The licensing service is committed to helping businesses and individuals to comply with all relevant legislation, in order to support new and existing businesses and enable cultural and leisure activities, thereby supporting the Council's growth agenda.

6 Finance / Resource Implications

6.1 No finance or resource implications identified.

7 Legal Implications (if any)

7.1 No legal implications identified.

8 Environmental Impact Implications (if any)

8.1 No environmental impact implications identified.

9 Safeguarding and/or Community Safety Implications (if any)

9.1 The four licensing objectives under the Licensing Act 2003 are:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

These are the main aims of the Licensing Service. The continued work of the service to achieve and promote these aims, further supports the role of the Council in ensuring community safety. The Council's involvement in the regulation of street trading through the issuing of consents, enables some control and redress. This allows issues such as rogue traders, public health concerns and obstructions of the highway, caused by street traders, to be addressed.

10 Equality and Diversity Implications (if any)

10.1 There are a number of protected characteristics identified in the Equality Act 2010, which are; age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation and members need to demonstrate that they have consciously thought about the three aims of the Public Sector Equality Duty as part of the decision making process. The three aims the authority must have due regard for are:

- Eliminate discrimination, harassment, victimisation;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

10.2 No equality and diversity implications were identified.

11 Social Value Implications (if any)

11.1 Since the report does not involve the procurement of services, no social value implications have been identified.

12 Partnership Implications (if any)

12.1 No partnership implications were identified.

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
 Schedule 4 STREET TRADING

Interpretation

1(1) In this Schedule—

- " consent street" means a street in which street trading is prohibited without the consent of the district council;
- " licence street" means a street in which street trading is prohibited without a licence granted by the district council;
- " principal terms ", in relation to a street trading licence, has the meaning assigned to it by paragraph 4(3) below ;
- " prohibited street" means a street in which street trading is prohibited ;
- " street " includes—

(a)

any road, footway, beach or other area to which the public have access without payment; and

(b)

a service area as denned in section 329 of the Highways Act 1980, and also includes any part of a street;

- " street trading" means, subject to sub-paragraph (2) below, the selling or exposing or offering for sale of any article (including a living thing) in a street; and
- " subsidiary terms", in relation to a street trading licence, has the meaning assigned to it by paragraph 4(4) below.

(2)The following are not street trading for the purposes of this Schedule—

(a) trading by a person acting as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871 ;

(b) anything done in a market or fair the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of an enactment or order.

(c) trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980 ;

(d) trading as a news vendor;

(e) trading which—

(i) is carried on at premises used as a petrol filling station ; or

(ii)is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop ;

(f) selling things, or offering or exposing them for sale, as a roundsman;

(g) the use for trading under Part VILA of the Highways Act 1980 of an object or structure placed on, in or over a highway ;

(h) the operation of facilities for recreation or refreshment under Part VILA of the Highways Act 1980 ;

(j) the doing of anything authorised by regulations made under section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act 1916.

(3) The reference to trading as a news vendor in sub-paragraph (2)(d) above is a reference to trading where—

(a) the only articles sold or exposed or offered for sale are newspapers or periodicals ; and

(b) they are sold or exposed or offered for sale without a stall or receptacle for them or with a stall or receptacle for them which does not—

(i) exceed one metre in length or width or two metres in height;

(ii) occupy a ground area exceeding 0.25 square metres ; or

(iii) stand on the carriageway of a street.

Designation of streets

2(1) A district council may by resolution designate any street in their district as—

(a) a prohibited street;

(b) a licence street; or

(c) a consent street.

(2) If a district council pass such a resolution as is mentioned in sub-paragraph (1) above, the designation of the street shall take effect on the day specified in that behalf in the resolution (which must not be before the expiration of the period of one month beginning with the day on which the resolution is passed).

(3) A council shall not pass such a resolution unless—

(a) they have published notice of their intention to pass such a resolution in a local newspaper circulating in their area ;

(b) they have served a copy of the notice—

(i) on the chief officer of police for the area in which the street to be designated by the resolution is situated; and

(ii) on any highway authority responsible for that street; and

(c) where sub-paragraph (4) below applies, they have obtained the necessary consent.

(4) This sub-paragraph applies—

(a) where the resolution relates to a street which is owned or maintainable by a relevant corporation ; and

(b) where the resolution designates as a licence street any street maintained by a highway authority ; and in sub-paragraph (3) above " necessary consent" means—

(i) in the case mentioned in paragraph (a) above, the consent of the relevant corporation ; and

(ii) in the case mentioned in paragraph (b) above, the consent of the highway authority.

(5) The following are relevant corporations for the purposes of this paragraph—

(a) the British Railways Board ;

(b) the Commission for the New Towns ;

(c) a development corporation for a new town ;

(d) an urban development corporation established under the Local Government, Planning and Land Act 1980 ;
and

(e) the Development Board for Rural Wales.

(6) The notice referred to in sub-paragraph (3) above—

(a) shall contain a draft of the resolution ; and

(b) shall state that representations relating to it may be made in writing to the council within such period, not less than 28 days after publication of the notice, as may be specified in the notice.

(7) As soon as practicable after the expiry of the period specified under sub-paragraph (6) above, the council shall consider any representations relating to the proposed resolution which they have received before the expiry of that period.

(8) After the council have considered those representations, they may, if they think fit, pass such a resolution relating to the street as is mentioned in sub-paragraph (1) above.

(9) The council shall publish notice that they have passed such a resolution in two consecutive weeks in a local newspaper circulating in their area.

(10) The first publication shall not be later than 28 days before the day specified in the resolution for the coming into force of the designation.

(11) Where a street is designated as a licence street, the council may resolve—

(a) in the resolution which so designates the street; or

(b) subject to sub-paragraph (12) below, by a separate resolution at any time,

that a street trading licence is not to be granted to any person who proposes to trade in the street for a number of days in every week less than a number specified in the resolution.

(12) Sub-paragraphs (3)(a) and (6) to (10) above shall apply in relation to a resolution under sub-paragraph (11) above as they apply in relation to a resolution under sub-paragraph (1) above.

(13) Any resolution passed under this paragraph may be varied or rescinded by a subsequent resolution so passed.

Street trading licences

3(1) An application for a street trading licence or the renewal of such a licence shall be made in writing to the district council.

(2) The applicant shall state—

(a) his full name and address ;

(b) the street in which, days on which and times between which he desires to trade ;

(c) the description of articles in which he desires to trade and the description of any stall or container which he desires to use in connection with his trade in those articles ; and

(d) such other particulars as the council may reasonably require.

(3) If the council so require, the applicant shall submit two photographs of himself with his application.

(4) A street trading licence shall not be granted—

(a) to a person under the age of 17 years ; or

(b) for any trading in a highway in relation to which a control order under section 7 of the Local Government (Miscellaneous Provisions) Act 1976 (road-side sales) is in force, other than trading to which the control order does not apply.

(5) Subject to sub-paragraph (4) above, it shall be the duty of the council to grant an application for a street trading licence or the renewal of such a licence unless they consider that the application ought to be refused on one or more of the grounds specified in sub-paragraph (6) below.

(6) Subject to sub-paragraph (8) below, the council may refuse an application on any of the following grounds—

(a) that there is not enough space in the street for the applicant to engage in the trading in which he desires to engage without causing undue interference or inconvenience to persons using the street;

(b) that there are already enough traders trading in the street from shops or otherwise in the goods in which the applicant desires to trade ;

(c) that the applicant desires to trade on fewer days than the minimum number specified in a resolution under paragraph 2(11) above;

(d) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;

(e) that the applicant has at any time been granted a street trading licence by the council and has persistently refused or neglected to pay fees due to them for it or charges due to them under paragraph 9(6) below for services rendered by them to him in his capacity as licence-holder ;

(f) that the applicant has at any time been granted a street trading consent by the council and has persistently refused or neglected to pay fees due to them for it;

(g) that the applicant has without reasonable excuse failed to avail himself to a reasonable extent of a previous street trading licence.

(7) If the council consider that grounds for refusal exist under sub-paragraph (6)(a), (b) or (g) above, they may grant the applicant a licence which permits him—

(a) to trade on fewer days or during a shorter period in each day than specified in the application ; or

(b) to trade only in one or more of the descriptions of goods specified in the application.

(8) If

(a) a person is licensed or otherwise authorised to trade in a street under the provisions of any local Act; and

(b) the street becomes a licence street; and

(c) he was trading from a fixed position in the street immediately before it became a licence street; and (d) he applied for a street trading licence to trade in the street, his application shall not be refused on any of the grounds mentioned in sub-paragraph (6)(a) to (c) above.

4(1) A street trading licence shall specify—

(a) the street in which, days on which and times between which the licence-holder is permitted to trade ; and

(b) the description of articles in which he is permitted to trade.

(2) If the district council determine that a licence-holder is to confine his trading to a particular place in the street, his street trading licence shall specify that place.

(3) Matters that fall to be specified in a street trading licence by virtue of sub-paragraph (1) or (2) above are referred to in this Schedule as the " principal terms " of the licence

(4) When granting or renewing a street trading licence, the council may attach such further conditions (in this Schedule referred to as the " subsidiary terms" of the licence) as appear to them to be reasonable.

(5) Without prejudice to the generality of sub-paragraph (4) above, the subsidiary terms of a licence may include conditions—

(a) specifying the size and type of any stall or container which the licence-holder may use for trading ;

(b) requiring that any stall or container so used shall carry the name of the licence-holder or the number of his licence or both ; and

(c) prohibiting the leaving of refuse by the licence-holder or restricting the amount of refuse which he may leave or the places in which he may leave it.

(6) A street trading licence shall, unless previously revoked or surrendered, remain valid for a period of 12 months from the date on which it is granted or, if a shorter period is specified in the licence, for that period.

(7) If a district council resolve that the whole or part of a licence street shall be designated a prohibited street, then, on the designation taking effect, any street trading licence issued for trading in that street shall cease to be valid so far as it relates to the prohibited street.

5(1) A district council may at any time revoke a street trading licence if they consider—

(a) that, owing to circumstances which have arisen since the grant or renewal of the licence, there is not enough space in the street for the licence-holder to engage in the trading permitted by the licence without causing undue interference or inconvenience to persons using the street;

(b) that the licence-holder is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason ;

(c) that, since the grant or renewal of the licence, the licence holder has persistently refused or neglected to pay fees due to the council for it or charges due to them under paragraph 9(6) below for services rendered by them to him in his capacity as licence-holder ; or

(d) that, since the grant or renewal of the licence, the licence-holder has without reasonable excuse failed to avail himself of the licence to a reasonable extent.

(2) If the council consider that they have ground for revoking a licence by virtue of sub-paragraph (1)(a) or (d) above, they may, instead of revoking it, vary its principal terms—

(a) by reducing the number of days or the period in any one day during which the licence-holder is permitted to trade ; or

(b) by restricting the descriptions of goods in which he is permitted to trade.

(3) A licence-holder may at any time surrender his licence to the council and it shall then cease to be valid.

6(1) When a district council receive an application for the grant or renewal of a street trading licence, they shall within a reasonable time—

(a) grant a licence in the terms applied for ; or

(b) serve notice on the applicant under sub-paragraph (2) below.

(2) If the council propose—

(a) to refuse an application for the grant or renewal of a licence ; or

(b) to grant a licence on principal terms different from those specified in the application ; or

(c) to grant a licence confining the applicant's trading to a particular place in a street; or

(d) to vary the principal terms of a licence ; or

(e) to revoke a licence,

they shall first serve a notice on the applicant or, as the case may be, the licence-holder—

(i) specifying the ground or grounds on which their decision would be based ; and

(ii) stating that within 7 days of receiving the notice he may in writing require them to give him an opportunity to make representations to them concerning it.

(3) Where a notice has been served under sub-paragraph (2) above, the council shall not determine the matter until either—

(a) the person on whom it was served has made representations to them concerning their decision ; or

(b) the period during which he could have required them to give him an opportunity to make representations has elapsed without his requiring them to give him such an opportunity ; or

(c) the conditions specified in sub-paragraph (4) below are satisfied.

(4) The conditions mentioned in sub-paragraph (3)(c) above are—

(a) that the person on whom the notice under sub-paragraph (2) above was served has required the council to give him an opportunity to make representations to them concerning it, as provided by sub-paragraph (2)(ii) above ;

(b) that the council have allowed him a reasonable period for making his representations ; and

(c) that he has failed to make them within that period.

(5) A person aggrieved—

(a) by the refusal of a council to grant or renew a licence, where—

(i) they specified in their notice under sub-paragraph (2) above one of the grounds mentioned in paragraph 3(6)(d) to (g) above as the only ground on which their decision would be based ; or

(ii) they specified more than one ground in that notice but all the specified grounds were grounds mentioned in those paragraphs ; or

(b) by a decision of a council to grant him a licence with principal terms different from those of a licence which he previously held, where they specified in their notice under sub-paragraph (2) above the ground mentioned in paragraph 3(6)(g) above as the only ground on which their decision would be based ; or

(c) by a decision of a council—

(i) to vary the principal terms of a licence ; or

(ii) to revoke a licence,

in a case where they specified in their notice under sub-paragraph (2) above one of the grounds mentioned in paragraph 5(1)(b) to (d) above as the only ground on which their decision would be based or they specified more than one ground in that notice but all the specified grounds were grounds mentioned in those paragraphs,

may, at any time before the expiration of the period of 21 days beginning with the date upon which he is notified of the refusal or decision, appeal to the magistrates' court acting for the petty sessions area in which the street is situated.

(6) An appeal against the decisions of a magistrates' court under this paragraph may be brought to the Crown Court.

(7) On an appeal to the magistrates' court or the Crown Court under this paragraph the court may make such order as it thinks fit.

(8) Subject to sub-paragraphs (9) to (11) below, it shall be the duty of the council to give effect to an order of the magistrates' court or the Crown Court.

(9) The council need not give effect to the order of the magistrates' court until the time for bringing an appeal under sub-paragraph (6) above has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal.

(10) If a licence-holder applies for renewal of his licence before the date of its expiry, it shall remain valid—

(a) until the grant by the council of a new licence with the same principal terms ; or

(b) if—

(i) the council refuse renewal of the licence or decide to grant a licence with principal terms different from those of the existing licence, and

(ii) he has a right of appeal under this paragraph, until the time for bringing an appeal has expired or, where an appeal is duly brought, until the determination or abandonment of the appeal; or

(c) if he has no right of appeal under this paragraph, until the council either grant him a new licence with principal terms different from those of the existing licence or notify him of their decision to refuse his application.

(11) Where

(a) a council decide—

(i) to vary the principal terms of a licence ; or

(ii) to revoke a licence ; and

(b) a right of appeal is available to the licence-holder under this paragraph,

the variation or revocation shall not take effect until the time for bringing an appeal has expired or, where an appeal is duly brought, until the determination or abandonment of the appeal.

Street trading consents

7(1) An application for a street trading consent or the renewal of such a consent shall be made in writing to the district council.

(2) Subject to sub-paragraph (3) below, the council may grant a consent if they think fit.

(3) A street trading consent shall not be granted—

(a) to a person under the age of 17 years ; or

(b) for any trading in a highway to which a control order under section 7 of the Local Government (Miscellaneous Provisions) Act 1976 is in force, other than trading to which the control order does not apply.

(4) When granting or renewing a street trading consent the council may attach such conditions to it as they consider reasonably necessary.

(5) Without prejudice to the generality of sub-paragraph (4) above, the conditions that may be attached to a street trading consent by virtue of that sub-paragraph include conditions to prevent—

(a) obstruction of the street or danger to persons using it; or

(b) nuisance or annoyance (whether to persons using the street or otherwise).

(6) The council may at any time vary the conditions of a street trading consent.

(7) Subject to sub-paragraph (8) below, the holder of a street trading consent shall not trade in a consent street from a van or other vehicle or from a stall, barrow or cart.

(8) The council may include in a street trading consent permission for its holder to trade in a consent street—

(a) from a stationary van, cart, barrow or other vehicle ; or

(b) from a portable stall.

(9) If they include such a permission, they may make the consent subject to conditions—

(a) as to where the holder of the street trading consent may trade by virtue of the permission ; and

(b) as to the times between which or periods for which he may so trade.

(10) A street trading consent may be granted for any period not exceeding 12 months but may be revoked at any time.

(11) The holder of a street trading consent may at any time surrender his consent to the council and it shall then cease to be valid.

General

8. The holder of a street trading licence or a street trading consent may employ any other person to assist him in his trading without a further licence or consent being required.

9(1) A district council may charge such fees as they consider reasonable for the grant or renewal of a street trading licence or a street trading consent.

(2) A council may determine different fees for different types of licence or consent and, in particular, but without prejudice to the generality of this sub-paragraph, may determine fees differing according—

(a) to the duration of the licence or consent;

(b) to the street in which it authorises trading; and

(c) to the descriptions of articles in which the holder is authorised to trade.

(3) A council may require that applications for the grant or renewal of licences or consents shall be accompanied by so much of the fee as the council may require, by way of a deposit to be repaid by the council to the applicant if the application is refused.

(4) A council may determine that fees may be paid by instalments.

(5) Where a consent is surrendered or revoked, the council shall remit or refund, as they consider appropriate, the whole or a part of any fee paid for the grant or renewal of the consent.

(6) A council may recover from a licence-holder such reasonable charges as they may determine for the collection of refuse, the cleansing of streets and other services rendered by them to him in his capacity as licence-holder.

(7) Where a licence—

(a) is surrendered or revoked ; or

(b) ceases to be valid by virtue of paragraph 4(7) above, the council may remit or refund, as they consider appropriate, the whole or a part—

(i) of any fee paid for the grant or renewal of the licence ; or

(ii) of any charges recoverable under sub-paragraph (6) above.

(8) The council may determine—

(a) that charges under sub-paragraph (6) above shall be included in a fee payable under sub-paragraph (1) above ; or

(b) that they shall be separately recoverable.

(9) Before determining charges to be made under sub-paragraph (6) above or varying the amount of such charges the council—

(a) shall give notice of the proposed charges to licence-holders ;

and

(b) shall publish notice of the proposed charges in a local newspaper circulating in their area.

(10) A notice under sub-paragraph (9) above shall specify a reasonable period within which representations concerning the proposed charges may be made to the council.

(11) It shall be the duty of a council to consider any such representations which are made to them within the period specified in the notice.

Offences

10 (1) A person who—

(a) engages in street trading in a prohibited street; or

(b) engages in street trading in a licence street or a consent street without being authorised to do so under this Schedule ; or

(c) contravenes any of the principal terms of a street trading licence ; or

(d) being authorised by a street trading consent to trade in a consent street, trades in that street—

(i) from a stationary van, cart, barrow or other vehicle ; or

(ii) from a portable stall,

without first having been granted permission to do so under paragraph 7(8) above ; or

(e) contravenes a condition imposed under paragraph 7(9) above, shall be guilty of an offence.

(2) It shall be a defence for a person charged with an offence under sub-paragraph (1) above to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

(3) Any person who, in connection with an application for a street trading licence or for a street trading consent, makes a false statement which he knows to be false in any material respect, or which he does not believe to be true, shall be guilty of an offence.

(4) A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding £200.

Savings

11. Nothing in this Schedule shall affect—

(a) section 13 of the Markets and Fairs Clauses Act 1847 (prohibition of sales elsewhere than in market or in shops etc.) as applied by any other Act;

(6) section 55 of the Food and Drugs Act 1955 (prohibition of certain sales during market hours).

**Application for a Street Trading Consent
Local Government (Miscellaneous Provisions) Act 1982**

Your application will be deemed incomplete and will not be processed if you fail to include the documentation listed below;

- 2 x A5 sized colour photographs of the stall
- Proof of Public Liability Insurance (minimum of £2 million)
- Application Processing Fee (to accompany applications for consents over 3-months)
- Full Application Fee (to accompany applications for consents less than 3 months)

Please select a Street Trading consent type:

Grant Renewal

Please select Street Trading Consent period:

12 Months*

*If you are not applying for 12 months consent, please select the proposed months of trading:

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC

Proposed day(s) of trading:

MON	TUES	WED	THUR	FRI	SAT	SUN

Proposed hour(s) of trading:

MON	TUES	WED	THUR	FRI	SAT	SUN

Full Name:

Address:

Telephone Number:

E-mail:

Date of Birth:

Trading Name:	
Height (metric):	Length (Metric):
Width (metric):	Colour:
How is the stall powered? i.e. electric, LPG:	

Specific proposed trading location (these details will be used when consulting with Somerset Highways – please attach a plan if necessary):
Items offered for sale:
Will you be the sole operator of the stall? YES NO
If no, please provide name(s)/address(es):

<p>I declare that the information given in this application is true to the best of my knowledge and belief and I understand that any information given which is subsequently found to be incorrect may result in the immediate revocation or refusal of any consent.</p> <p>Signed _____ Dated _____</p> <p>If company partnership, please state position: _____</p>
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STREET TRADING CONSENT CONDITIONS

General Conditions

- 1 These conditions may be dispensed with or modified by the Council in any individual case by means of a Consent variation in accordance with the statutory requirements.
- 2 The Council reserves the right to exercise its powers under the Local Government (Miscellaneous Provisions) Act 1982 to prohibit any street trading for a maximum of six days in any one year where it is deemed necessary by the Council subject to notice in writing at least 14 days prior to removing the Consent day(s).
- 3 The Consent given by the Council is not transferable and is applicable to the consent holder only and it will relate to a specific stationary van, cart, barrow or other vehicle or moveable stall.
- 4 Traders shall comply with any recommendations/advice given to them by the Council, any Authorised Officer of the Council or a Police Officer.
- 5 The Council's Street Trading Consent Notice shall be conspicuously displayed on the stall, barrow, cart etc, to which the Consent applies, so that it is clearly visible to the public.
- 6 The Consent Holder(s) shall notify the Licensing Unit within 72 hours of any convictions or proceedings arising out of the use or enjoyment of the Consent.
- 7 The Consent Holder shall not assign, underlet or part with his interest or possession under this Consent without informing the Council in writing.
- 8 The Consent Holder shall at all times maintain a valid Third Party Public Liability insurance policy to the satisfaction of the Council and shall produce a valid certificate of such insurance at any time upon request by an authorised officer of the Council.
- 9 If Trading is to take place on private land, the trader must have written permission from the Land Owner that trading can take place.
- 10 Traders/Trader Assistants must report the loss of a Consent Notice to the Council's Licensing Unit within 72 hours of losing it.
- 11 Traders/Trader Assistants must not trade under the influence of any illegal or intoxicating substance. Any traders found with illegal substances on their pitch or on their position will have their licence revoked.
- 12 Only those goods or services specified on the Consent may be sold or offered or exposed for sale on the street trading consent pitch.
- 13 Goods may not be of an inflammable, corrosive or otherwise dangerous nature.
- 14 All goods shall be clearly priced and goods sold by weight or number shall indicate the unit of quantity in which they are being offered for sale. A street trader offering a service shall make clear the nature and cost of that services
- 15 Traders shall, notify the Council in writing details of any assistants or of change of assistants working on the pitch.
- 16 Trading may only take place on the days and during the times specified on the Consent without special authorisation being given in writing from the Council.

- 17 Traders and their assistants employed by them shall ensure the public are treated fairly and with courtesy at all times.
- 18 Traders shall conduct their undertaking in such a way as to ensure so far as is reasonably practicable that no person is exposed to risks to their Health and Safety.
- 19 Traders shall notify the Council in writing of any change of address or addresses at which the stall and perishable goods are stored. Such notice shall be given within 7 days of the change.
- 20 If a trader wishes any of the terms of the Consent to be varied or to seek the Council's agreement under these rules, application must be made in writing to the Council in accordance with the statutory requirements.

Site Conditions

- 21 The trader will be responsible for cleansing of the trading area and ensure that all refuse arising as a result of the activities of the trader shall be placed in suitable covered containers provided by the trader, unless otherwise provided by the Council, and shall be kept exclusively for that purpose. Such refuse containers shall be kept as clean as is reasonably possible and disposed of in an approved manner on a daily basis.
- 22 The trader shall make such provision as is necessary to prevent any discharge of water or effluent from the street trading activity to any surface drainage or any other watercourse.
- 23 The trader when operating on a static site shall have access to suitable and sufficient sanitary accommodation for both the Consent Holder, and any persons employed in the street trading activity.
- 24 Advertisements or other notices must not be placed outside of the area of the street trading site without the approval of the Council. The Consent Holder shall not make any excavations or alterations of any description in the surface of the street or land in the ownership of the Council adjoining a street, or place or fix equipment of any description in the said surface except with the previous consent from the Council in writing.
- 25 The trader shall not place on the street or in a public place any furniture or equipment other than as permitted by the Consent and he must maintain the same in a clean and tidy condition and not place them so as to obstruct the entrance or exit from any premises.
- 26 Traders shall not allow any obstruction to fire hydrants, manholes or other street furniture etc, resulting from their business.
- 27 The trader shall trade only from the position, which is detailed on the Consent, unless directed to or agreed to by the Licensing Authority.
- 28 The trader must not cause or allow to be caused any damage to the street surface, street furniture, lighting and landscaping within the permitted area and will be responsible for the making good of any such damage.
- 29 No heat producing equipment shall be used without the express permission of the Council and any such equipment shall be so placed within the trading areas as to offer maximum safety to the public. The position of such equipment in relation to other goods or materials shall be agreed with the Authorised Officer of the Council.
- 30 Fabrics or other sheet materials used in the construction of the stalls, roof coverings, drapes or awnings shall be rendered flame retardant and maintained in that condition to the satisfaction of the Council

- 31 Traders selling food products, shall comply with the provisions of the Food Safety Act 1990 (Amendment) Regulations 2004, General Food Regulations 2004, Regulations (EC) No. 178/2002, 852/2004, 853/2004 of the European Parliament and of the Council and the Food Hygiene (England) Regulations 2006
- 32 Liquefied Petroleum Gas shall not be used without the express permission of the Council and any equipment using this gas shall have only flexible and approved armoured hoses complying with the relevant British Standard Specification or equivalent.
- 33 No mobile generators shall be used without the express permission of the Council. Where permission is granted generators shall be so positioned that: - they do not present a danger to the public do not present a fire or similar hazard to the stall, goods displayed thereon or adjoining premises and do not cause any noise or fume nuisance.
- 34 A competent person must install all generators and documentation must be provided to show that the generators have been maintained in accordance with the manufacturers instructions.
- 35 No combustible materials are to be stored in the vicinity of a generator and suitable first aid fire fighting appliance(s) must be immediately available.
- 36 Wherever possible all generators must be fuelled by diesel oil.
- 37 No fuel may be stored in the vicinity of a generator.
- 38 Generators must not be filled up during the trading day. All generators should be filled up at the start of the day before trading.
- 39 The Consent Holder shall ensure that any equipment, such as a generator, is in a safe working condition and suitably cordoned off to ensure that the General Public do not have access to the equipment.
- 40 All traders using any form of power must have a minimum of a one-litre fire extinguisher.
- 41 Mobile traders must not trade in an area that conflicts with the trade of any business or street trader that is located within the close proximity of the trading site.

Town Centre Conditions

- 42 All furniture i.e. tables and chairs, used within the Taunton Town Centre must be of metal construction or otherwise approved by the Authority – plastic furniture is not permitted.
- 43 The trading area shall not exceed the dimensions 10ft x 8ft (3.05m x 2.44m) except during immediate re-stocking.
- 44 If a trader is not using a pitch for a period longer than seven days then the trader/consent holder must notify the Licensing Unit.
- 45 Traders shall commence trading, with their stalls in position and goods contained within the pitch area by 9.30am and should not be moved before 4.00pm. No vehicles are allowed onto the consented areas between these hours without special authorisation in writing from the Council.
- 46 Vehicles may only be used for delivery before 9.30am and after 4.00pm in the Consented Areas Once any vehicles have been unloaded, they must be removed from the Consented Area immediately.

- 47 All electric power supplied must be protected by residual current devices. Any appliance is to be separated from the supply outlet by a fuse of suitable rating.
- 48 All electrical cables or flexes, which are suspended over the public footway or carriageway shall be adequately supported.
- 49 All electrical cables or flexes, which run along the ground and are in a position where the public could come into contact with them, they must be fitted with rubber cable protecting mats.
- 50 Valid Portable Appliance Testing or similar for all electrical equipment used in the stall or unit must take place and evidence should be available if required by the Licensing Unit.
- 51 Electrical Power will only be available to traders for lighting and tills unless prior consent is obtained from the Council.
- 52 The roof awning or any other projection shall be contained within the pitch area unless agreed by the Council.
- 53 All goods, containers or other articles shall be contained within the licensed pitch area and height and shall not project beyond.
- 54 Traders shall not use or permit to be used on the pitch area or within the immediate vicinity any radio, cassette or CD players or other equipment or apparatus to produce music or other sound.

Mobile Trading

- 55 This consent is granted on the basis that a mobile trader must not trade from a site for more than the time specified in the Consent by the Council.
- 56 Mobile Units using chimes may sound chimes but not:-
 - (a) For longer than 4 seconds at a time.
 - (b) More often than once every 3 minutes.
 - (c) When the vehicle is stationary.
 - (d) When the vehicle is moving, except on approach to a selling point.
 - (e) When in sight of another vehicle which is trading.
 - (f) When within 50 metres of schools (during school hours) & hospitals places of worship,(on Sundays and other recognised days of worship).
 - (g) More often than once every 2 hours in the same length of street.
 - (h) With the volume too loud (i.e. not more than 80 dB(A).

Food Trading

- 57 Vans and stalls used for cooking must be adequately ventilated.
- 58 The Business must comply with current food safety legislation.
- 59 All staff must have attended, as a minimum, "level 1" Food Hygiene training within the past 5 years. Evidence of Food Hygiene training must be available for examination by an authorised officer of the Council at any time when the unit is trading.

Lay-By Trading

- 60 The Consent Holder shall provide suitable and sufficient sanitary accommodation for his customers to the satisfaction of the licensing authority. The local authority shall approve the sanitary accommodation arrangements.

Revocation Or Surrender Of Consent

- 61 The Council may revoke this Consent at any time and the Council shall not in any circumstances whatsoever be liable to pay any compensation to the holder in respect of such revocation.
- 62 The holder of Street Trading Consent shall return the said Consent to the Council immediately on revocation or surrender of the Consent.

Fees for street trading

APPENDIX D

- Consent grant, 1 year - £696
- Consent grant, 1 month - £66
- Consent grant, 1 week - £41
- Consent grant, 1 day - £35
- Consent renewal - £680

TAUNTON DEANE BOROUGH COUNCIL



LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
STREET TRADING

SECTION 115E PERMISSIONS, HIGHWAYS ACT 1980
PROMOTIONAL SPACES AND PAVEMENT CAFES

STREET TRADING/S115E PERMISSIONS POLICY & GUIDANCE

Version 2.0 - August 2012

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INTRODUCTION

This policy has been developed to assist persons applying for Street Trading Consents and s115e Permissions in Taunton Deane. It was adopted by the Council on 11 December 2012 and sets out the Council's principles, aims and standards for the administration and supervision of street trading and s115e activities within Taunton Deane.

Taunton Deane Borough Council has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 with regards to street trading within its area. Taunton Deane Borough Council issues S115E of the Highways Act 1980 on behalf of Somerset County Council Highways Authority.

The Council has further designated all of its administrative area as Consent Streets for street trading, pavement cafes and promotional spaces purposes.

Taunton Deane Borough Council will apply these guidelines to street trading activities and pavement cafes and promotional spaces in its area to ensure consistency of decision making.

However each application or contravention will be considered on its merits so that individual circumstances, where appropriate, are taken into consideration.

Taunton Deane Borough Council's street trading policy's aim is to create a street trading environment which complements premises based trading, is sensitive to the needs and amenities of residents, provides diversity of consumer choice, and seeks to enhance the character, and ambience of local environments.

The policy recognises the importance of street trading to the area and that it can add to the vibrancy and vitality whilst not necessarily adding to nuisance and crime and disorder.

This policy will be the subject of periodic monitoring and review and will be applied in a manner which is consistent with the Council's equalities and diversity policies.

DEFINITIONS OF TERMS USED IN THIS POLICY

Within the terms of the definitions apply:

The Council	Means the Taunton Deane Borough Council
Street Trading	Means the selling or exposing or offering for sale of any article (including a living thing) in any street
S115E Permission	Means permission to place an obstruction on the Highway
Street	Includes: (a) Any road, footway, beach or other area to which the public have access without payment. (b) A service area as defined in section 329 of the Highways Act 1980, and also includes any part of a street.
Consent Street	Means a street in which street trading is prohibited without the consent of Taunton Deane Borough Council.
Consent	Means consent to trade on a street by Taunton Deane Borough Council.
Consent Holder	Means the person or company to whom the consent to trade on a street has been granted by Taunton Deane Borough Council
Authorised Officer	Means an officer employed by Taunton Deane Borough Council and authorised by the Council to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.

LOCAL GOVERNMENT (MISCELLEOUS PROVISIONS) ACT 1982
SCHEDULE 4
STREET TRADING

'Consent Street' means a street in which street trading is prohibited without the consent of the district Council.

The Council will not grant a Street Trading Consent to persons under the age of 17 years.

The following are not street trading for the purpose of this schedule

- a) Trading by a person acting as a pedlar under the authority of a pedlars certificate granted under the Pedlars Act 1871;
- b) anything done in a market or fair the right to hold which is acquired by virtue of a grant (including presumed grant) or acquired or established by virtue of an enactment or order;
- c) trading in a trunk road picnic area provided by the Secretary of State under Section 112 of the Highways Act 1980
- d) trading as a news vendor
- e) trading which-
is carried on at premise used as a petrol filling station; or
is carried on at premise used as a shop or in a street adjoining premise so used and as part of the business of the shop;
- f) selling things or offering or exposing them for sale, as a roundsman
- g) the use for trading under part VIIA of the Highways Act 1980 of an object or structure placed on, in or over a highway;
the operation of facilities for recreation or refreshment under Part VIIA of the highways Act 1980
- h) the doing of anything authorised by regulations made under section 5 of the Police Factories etc (Miscellaneous Provisions) Act 1916

Mobile Trading

The Council has reached a decision to allow holders of mobile trading consents to trade on any public highways within the administrative area of Taunton Deane Borough Council. You can not trade on public open space/Council owned land/privately owned land without the consent of the appropriate land owner.

SECTION 115E – Pavement Cafes & Promotional Spaces
HIGHWAYS ACT 1980

Subject to subsections (2) to (4) below, a council may grant a person permission—

- a) to do on, in or over a highway to which this Part of this Act applies anything which the council could do on, in or over such a highway under section 115B(1) to (3) or 115C above; or
 - b) to use objects or structures on, in or over a highway to which this Part of this Act applies—
 - (i) for a purpose which will result in the production of income;
 - (ii) for the purpose of providing a centre for advice or information;
 - (iii) or for the purpose of advertising.
- 2) A council may not grant a person permission under subsection (1) (a) above to place an object or structure on, in or over a highway to which this Part of this Act applies—
- (a) for a purpose which will result in the production of income; or
 - (b) for the purpose of providing a centre for advice or information, unless they have first obtained the consent of the frontages with an interest—
 - (i) to the placing of the object or structure;
 - (ii) to the purpose for which it would be placed; and
 - (iii) to the proposed grant of permission.
- 3) A council may not grant a person permission to do anything which the council could only do under section 115C above unless they have first obtained the consent of the frontages with an interest.
- 4) A council may not grant a person permission—
- (a) to carry out works on, in or over a walkway;
 - (b) to place an object or structure on, in or over a walkway; or
 - (c) to provide, maintain or operate facilities for recreation or refreshment or both on a walkway, unless they have first obtained walkway consent.

Application forms for promotional spaces and pavement cafe permissions can be downloaded from the Taunton Deane Borough Council website.

CONDITIONS AND ENFORCEMENT

Standard conditions may be attached to each street trading consent or S115E permission detailing the holder's responsibilities to maintain public safety, avoid nuisance and generally preserve the amenity of the locality. A copy of these conditions can be requested from Taunton Deane Borough Council Licensing Department or viewed on the Taunton Deane Borough Council Website www.tauntondeane.gov.uk/streettrading

Specific conditions may also be attached such as the days and hours when trading/operation is permitted, the goods which may be sold, the design and layout of any stall or street furniture provided and the size of the pitch.

Failure to comply with conditions, non-payment of fees or non-attendance at the site without good reason may lead to revocation or non-renewal of a consent or permission.

Persons trading without a street trading consent or s115E permission and who are not exempt will be the subject of enforcement action. This will include any person who holds a certificate granted under the Pedlar's Act 1871, but who fails to operate in accordance with the Act.

The issue of absent traders will be addressed by conditions upon the licence or the consent, for example conditions which:

- require personal attendance of the holder without the option for someone else to run the business on his behalf;
- require the holder to provide notification of his nominated assistant;
- require the holder to provide notice of non-attendance to the Licensing Department (not required for periods of less than 20 working days for Annual leave);
- allow the Licensing Department to revoke the consent after 20 working days non attendance where no notification of absence has been submitted.

OCCASIONAL CONSENTS & PERMISSIONS

Special Events

Highlights in the Taunton event calendar include the annual Family Fun Day in June, Taunton Marathon, Summer Westival, Taunton Flower Show in August, Taunton Carnival and Christmas Lights celebrations.

Visiting Markets include the weekly Vale of Taunton Farmers' Market all throughout the year and the monthly Blackdown Hills Craft Market from March - December.

Traders wishing to partake in any of the above events must contact Taunton Deane Borough Council Licensing Department for further information.

Christmas Trading

Whilst we welcome occasional trading, the same process will be followed for applications as permanent consents.

We recommend that applications for the busy Christmas period are submitted 3 months prior to the beginning of the Christmas trading period in Taunton which begins with the Christmas event in mid November.

Busking

If you want to busk in any of the consented streets in Taunton Deane you will require permission from the Taunton Town Centre Team they can be contacted on 01823 324 050. If you wish to sale items as you busk you will also require street trading consent, which can only be obtained through Taunton Deane Borough Council Licensing Department.

S115E – Promotional Space Permissions

There are currently two pre-approved promotional space in Taunton Town Centre. You must book and apply for permission before using the promotional space. In order that we can offer these spaces to charities for free there is a daily charge for business/non charitable use. You can apply to promote your business/charity/organisation anywhere in the pre-consented areas, however your application will require going through the consultation period if it is not already in one of the pre-approved promotional areas.

You can contact the Licensing Department prior to submitting an application to use a promotional space to check the space is available. The licensing team are unable to reserve spaces, however they will be able to inform you if it is currently available. Your application for promotional space must be received 14-days prior to the date of use to ensure the permission can be decided in good time.

CONSENTED AREAS APPROVED FOR STREET TRADING & S115E PERMISSIONS

Site Assessment for consents

The Council will not identify suitable 'pitches' for street trading but will maintain a map showing the location of existing sites that have permission to street trade.

List of existing sites that have permission

Street Trading Consents - Taunton

High Street
Fore Street
Somerset Square
Goodland Gardens
Vivary Park
Longrun Meadow

S115E Permission – Pavement Cafes

High Street
Fore Street
Somerset Square

S115e Permission – Promotional Space

Fore Street
High Street

Nature of Goods and Trading Hours

The nature of goods which may be sold from any pitch will be specified in the consultation process.

The Council would not normally grant a new consent for the sale of goods or services which conflict with those provided by nearby traders.

General street trading hours are not set, therefore in the case of hot food takeaways and fresh produce sellers trading hours will be determined on a pitch-by-pitch basis.

The design and appearance of the stall, barrow, van or cart etc. to be used must be approved by the Council.

Consents will normally be issued for seven days per week, unless there are limiting factors on the use of a pitch on particular days. The permissions granted will identify the permitted days and times of trade.

DESCRIPTION OF EXSISTING CONSENTED AREAS

Taunton is Somerset's principle town. An historic market town set on the banks of the River Tone, it has a bustling and diverse shopping area, a thriving cultural scene, and excellent educational and health services. Surrounded by some of South West England's most beautiful rural and coastal landscapes, Taunton has excellent transport links to London, the Midlands, Bristol, Exeter and beyond.

High Street

Taunton town centre offers an exciting range of shops, cafes and other leisure facilities and boasts an array of pavement cafes, promotional spaces and street trading in a semi-pedestrianised location.

Many major stores can be found on its bustling main shopping streets and in the newly-refurbished retail centre, Orchard. It also boasts a wide variety of independent shops particularly in Bath Place and the Coal Orchard area - and a very popular Vale of Taunton Farmer's market, located in the High Street every Thursday. The town centre hosts a range of events and entertainment year round.

Project Taunton is planning major improvements to both the main shopping area and Coal Orchard, making the town the wider catchment's retail destination of choice.

Currently there are 2 permanent street traders in this area offering fresh cut flowers and hot sausages.

There are 8 pavement cafes

Vehicle access is required in this area and a red route for emergency vehicles must be maintained at all times.

A fixed electrical supply is available in this area

Fore Street*

Positioned at the rear of the Market House this area contains 3 permanent street traders offering food items such as juices, ice creams and fruit and veg. The main approved promotional space is situated at the West End of the Market House.

A fixed electrical supply is available in this area.

*Due to the volume of currently consented hot and cold food vendors applications for further food sellers may not be considered for this area.

Vivary Park*

Is a public open space. The Sherford Stream, a tributary of the River Tone flows through the 7.5 hectares (19 acres) park, which is located near the centre of the town. It contains two main wide open spaces, as well as a High Ropes Course, Golf Course, and war memorial dating from 1922, a miniature golf course, tennis courts, two children's playground, a model railway track which was added in 1979, and an 18-hole, 4620-yards, par-63 golf course. The park includes trees, rose beds and herbaceous borders with around 56,000 spring and summer bedding plants being used each year. The rose garden includes the Royal National Rose Society Provincial Trial Ground.

*Permits to use the park are required from Taunton Deane Borough Council DLO section before Street Trading Consent or s115e permissions can be granted.

Cultural Quarter

The Cultural Quarter within Taunton's town centre runs along the south bank of the River Tone. Extending from Priory Bridge and including Somerset's famous County Cricket Ground the Cultural Quarter links the town centre with the Firepool commercial development and Tangier. With attractive landscaping, riverside walkways and new facilities, the Cultural Quarter is also home to Taunton's Brewhouse Theatre & Arts Centre.

Somerset Square

Somerset Square is the newly landscaped public space which is situated between Pegasus Court and Coal Orchard. The area has been created to provide a suitable setting for the Cricket Club's redevelopment and the Brewhouse Theatre & Arts Centre which now benefits from a fabulous outlook with outdoor eating and performance areas.

A weekly farmers market takes place each Saturday.

Electric is available in this area.

Goodland Gardens

Goodland Gardens, on the site of the town's original fulling mill built in 1219, is the largest public space in Taunton's town centre. Centrally located between the river and Taunton's Grade I listed Mediaeval Castle, the Gardens link Coal Orchard, Bridge/North Streets, Castle Green and Tangier.

Laid out in 1971, the public space takes its name from the Goodland family who played a major role in the water-borne coal trade and were involved in the work of the Tone Conservators who annually inspected the river to ensure that it was navigable.

Currently there is no electric available in this area.

Castle Green

The impressive plans to reinstate Taunton's, historic Castle Green as a civic space for markets, events and relaxation is now underway. Funds for the project have been granted by central Government for specific projects associated with the Town Centre regeneration and growth.

Meanwhile the Museum of Somerset accommodated in Taunton's 12th Century Castle (sited on the northern side of Castle Green) has recently opened its doors to the public following a superb £6million refit.

Tangier

Tangier is an area to the south of the town centre skirting the river from the bus station to French Weir Park. This prime location, with many brown-field areas in public ownership is perfect for small scale commercial mixed use development – and a regional house builder has already acquired outline consent to build 200 new homes.

A new major road scheme, The Third Way, linking the A38 (Wellington Road) to Bridge Street and two Park & Ride schemes will ease the flow of traffic to this area significantly, making it a very desirable part of town in which to work and live.

Longrun Meadow

Longrun Meadow is public amenity land, to the south of Taunton town centre, bounded on its northern perimeter by the River Tone. It offers 65 acres of meadow, cycle and footpaths, an open oak barn for gatherings, shelter or what-you-will and a unique living willow 'cathedral' in a quieter area.

A Friends of Longrun Meadow group, with an interest in community events, outdoor recreation and wildlife, 'caretake' the space.

CONSULTATION ON APPLICATIONS

Before a Street Trading Consent or s115e permission is granted or renewed the Council will consult with various persons and organisations which may include the following:

- Somerset County Council Highways Authority
- Avon and Somerset Constabulary
- Taunton Deane Borough Council Environmental Health
- Taunton Town Centre Team (for street trading in Town Centre)
- Taunton Deane Borough Council Economic Development Team
- Devon and Somerset Fire Service

If the proposed street trading site is on private land we will require a letter from the land owner giving permission for it to be used for street trading with the application.

The consultation period with the above organisations and persons will be a maximum of 28 days from the date of a complete application being made to the Council.

If an objection is received from any of the above consultees, the Council will attempt to mediate between the parties. If no agreement can be reached the Council would normally refuse to grant the application.

SITE SAFETY ASSESMENT

Street Trading Consents or s115e permissions from static locations will **not** be granted where:

- a) A significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site, or
- b) Where there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited, or
- c) There is a conflict with Traffic Orders such as waiting restrictions, or
- d) The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes, or
- e) The trading unit obstructs the safe passage of users of the footway or carriageway, or
- f) The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities, or
- g) The site does not allow the Consent or Licence Holder, staff and customers to park in a safe manner, or
- h) The street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff.

ADDITIONAL REQUIREMENTS

Planning Permission

The issue of any street trading consent or s115e permission in relation to any particular land does NOT constitute the grant of any permission under the Town & Country Planning Act 1990 or any other legislation for the use of the land for that purpose.

Use of the land for trading may, therefore, amount to a material change of use for which planning permission is required notwithstanding that a street trading consent may have been granted.

You should contact the Council's Development Management on 01823 358695 and seek advice as to whether an application for planning permission needs to be made in respect of the proposed use of the land. Planning enforcement action could be taken in situations where planning permission is required but not obtained.

Licensing Act 2003

Under the Licensing Act 2003 a premise licence is required for the following;

- persons selling hot food between the hours of 2300 and 0500 hours
- Selling of alcohol on/off the premise
- regulated entertainment to include; live/recorded music, plays, films, dancing, facilities for
- making music and dancing.

This requirement is in addition to the requirement to hold a Street Trading Consent or s115e permission.

These notes are intended to cover the Street Trading consents and s115e permissions only, and separate application and consultation arrangements are required under the Licensing Act 2003.

Please contact the Licensing Team on 01823 356 343 to obtain further information and advice.

Permits for trading on Taunton Deane Borough Council owned land

Permits for consent to use public open are required for Vivary Park and Longrun Meadow, consents for Street Trading/s115e will not be issued without a permit for use being granted and submitted with the application.

REFUSAL OF APPLICATINS

Where the Council refuses an application the applicant will be informed in writing of the reasons for not granting the application.

There is no right of appeal to the Magistrates Court against decisions of the Council in relation to Street Trading Consents under the Local Government (Miscellaneous Provisions) Act 1982.

Where a deposit has been made with an application, 50% of the deposit will be refunded to the applicant in the case of an application not being granted.

FEES

Fees are payable for each unit/site consent and/or s115e permission

If the fee is more than £1,000 annual then 1/12th of the fee must be paid on application. If the fee is under £1,000 annual then the full fee must be made on application.

Fees over £1,000 after application fee can be made by direct debit over the course of the consent/permit period.

Markets must supply the Licensing Department with a monthly list of traders, an invoice will be sent every 3 months based on those numbers for payment.

Street Trading Consents for which fees are not payable

The following Street Trading activities have been deemed by Taunton Deane Borough Council to not require the payment of fees to the Council:

- a) Fetes or community events held for charitable purposes.
- b) Non-Commercial Car Boot Sales (i.e. events organised by organisations that will not involve private gain for an individual or company)
- c) Sales of articles by residential occupiers within the curtilage of their properties, or on land contiguous with it.
- d) Trading Concessions granted by the council on their land (a Street Trading Consent will still be required).
- e) Annual Somerset Carnival procession when in the Borough of Taunton Deane.

Farmers Market/or similar

Farmers Market will be subject to the street trading scheme but at a reduce fee

A full list of fees for trading in Taunton Deane Borough Authority split into Zone 1 and Zone 2 is available on the Taunton Deane Borough Council website
www.tauntondeane.gov.uk/streettrading

CONSENT/PERMISSION LICENSED PERIOD AND RE-APPLICATION

Street trading consents and s115e Permissions are issued for a maximum period of 12 months.

New consents may be issued for a three month trial period to determine if necessary the viability and impact of trading.

Consents for shorter periods may be issued on request but subject to the payment of the appropriate fee determined by the Council.

Should the holder of a consent or permission wish to continue to benefit from it an application to renew the consent or permission must have been submitted to and approved by the Council prior to the expiry of the existing authorisation.

The Council will endeavour to send out a reminder 2 months prior to the consent/permission expiring however the responsibility to ensure applications for renewal are submitted on time lies with the consent or permission holder.

Please remember that applications for renewal will be subject to a consultation period of a maximum of 28 days and deadlines for submission of renewal application should be calculated appropriately.

Taunton Deane Borough Council

Minutes of the Licensing Sub-Committee Hearing for the application of a Scrap Metal Dealers Licence for Mr Ivor Salter held on Monday 8 May 2017 at 10.45am in the John Meikle Room at The Deane House, Belvedere Road, Taunton, TA1 1HE.

Present: Councillor James (Chairman)
Councillors Mrs Hill and Mrs Lees

Officers: Mark Banczyk-Gee (Licensing Officer), Alex Kershaw-Moore (SHAPE Legal Services) and Clare Rendell (Democratic Service Officer).

Applicant: Mr Ivor Salter

Interested Parties: None

Other: Mr Leo Charalambides (Applicant's Counsel)

(The meeting commenced at 10.45am)

The Chairman introduced himself and his fellow Sub-Committee Members and officers then explained their roles. As well as acknowledging the documents he explained the procedure to be followed during this meeting of the Sub-Committee.

The Licensing Officer introduced his previously circulated report. An application had been received from **Mr Ivor Salter** for a **Scrap Metal Dealers Licence** to be granted.

The Applicant had held a Scrap Metal Dealers Licence (SMDL) since 2007 and had renewed it every three years. Until 2014, there had been no incidents reported to the Licensing Department.

On 27 November 2014, the Applicant had been found guilty of seven counts of handling stolen goods in the course of his business as a scrap metal dealer. He was sentenced on 9 January 2015 to eighteen month's imprisonment which was suspended for two years. The Police reported this to the Licensing Department, who informed the Applicant of their intention to revoke his licence. The hearing, which was requested by the Applicant, was never arranged.

The Applicant's SMDL had expired on 25 November 2016. An application for a SMDL was received on 5 January 2017 from the Applicant. At this point, the Applicant was not registered with the Environment Agency as dictated he should be. This was rectified on 12 March 2017.

Included in the application was the Applicant's previous convictions, which detailed the seven counts of handling of stolen goods. The Police were consulted on the matter which was required by the regulations which governed the process of issuing a SMDL. Based on the convictions being notifiable offences, the Police opposed the issue of a SMDL to the Applicant.

The Applicant was served the notice of refusal on 14 March 2017 and through his solicitors, LHS, had stated that he wished to make oral representations at a hearing.

Detailed in the Officer's report were the options open to the Sub-Committee. These were:-

1. Issue a licence;
2. Issue a licence with one or both of the licence conditions (which were: that the dealer must not receive scrap metal except between 9am and 5pm on any day; that all scrap

metal received must be kept in the form in which it was received for a specific period, not exceeding 72 hours, beginning with the time when it was received); or

3. Refuse to issue a licence in line with the recommendation of the Police due to previous convictions of the Applicant. This was supported by the report author as the conditions would not stop or necessarily limit the Applicant's ability to handle stolen goods.

The following questions were asked by the Sub-Committee of the Licensing Officer following presentation of their report: (Responses are shown in italics):-

- Members requested clarification on whether this application was classed as a new licence or a renewal. Was a timescale given when a licence had lapsed?
When a licence had expired, this would always be dealt with as a new application. If this was a renewal, the application would have been submitted prior to the expiration date. This was decided by the guiding principles used by the Licensing Department. However, new applications and renewals were dealt with using the same process.
- How would a member of the public find out if a licence had expired?
They would need to contact the Licensing Department. This information was not available on the website.
- Members believed that the Applicant should be given dispensation as he had paid for his licence and had been waiting for a hearing to be set since the Authority had been notified of his offences.
- More information was requested on item 4.8 in the report, which related to the Environment Agency.
When a customer submitted an application to the Licensing Department they had to be registered with the Environment Agency for the certain licence they wanted to obtain. When the Applicant submitted their application in January 2017, they were only registered with a Carrier Licence with the Environment Agency. This was rectified on 12 March 2017.

The following questions were asked by the Legal Representative to the Sub-Committee of the Licensing Officer following presentation of their report: (Responses are shown in italics):-

- The Legal Representative requested a copy of the notice of refusal for the Sub-Committee Members.
- Clarification was requested on the dates the Licensing Department became aware of the Applicant's offences.
The Police had notified the Licensing Department sometime between the 27 November 2014 (which was when the Applicant had been found guilty of the offences) and 9 January 2015.

The following comments and points were presented by the Applicant's Counsel in relation to their written application:-

- The legislation was unclear on the process and whether it should be classed as a renewal or a new application. The Applicant had brought his old licence along to the hearing. On the document it stated that the licence expired on 25 November 2016. However, it did not give any details on the renewal process or timescales for submitting an application for a renewal.
- The 'test' for whether a licence should be renewed was clarified and stated as 'was the person fit and suitable to be granted the licence?' The Applicant had been located in the area for thirty years and had traded in scrap metal for that time. He also lived on site and had documents to show his records and history in the trade.
- It was confirmed that the Applicant was registered to both the Environment Agency and the Traffic Commissioner.
- A Public Inquiry was carried out on 3 February 2017 by the Traffic Commissioner and he decided that the offence committed by the Applicant was a one off and granted his licence.

- The application form was open and gave the Applicant the opportunity to declare the details of his convictions, which he had done.
- The Applicant's Counsel was not impressed with the 'admin chaos' when the notice of refusal had been issued. If the Licensing Department had decided that the offence was of a serious nature, then they would have made sure the Applicant's licence was revoked. This had not happened.
- The Applicant had demonstrated a good standard of record keeping and had brought along several documents to show this. He had even overpaid his income tax.
- The Applicant believed that he was part of a Police Operation and that the mystery shoppers had operated under Police guidance and so therefore the goods were not really stolen. He had felt harassed.
- The Applicant demonstrated he had shown due diligence as he had appointed a solicitor to represent him and his permits were displayed at the premises.

The following question was asked by the Sub-Committee of the Applicant following presentation of their case: (Responses are shown in italics):-

- Were the seven offences all around the same event?
Yes.

The following questions were asked by the Legal Representative to the Sub-Committee of the Applicant following presentation of their case: (Responses are shown in italics):-

- The Applicant's Counsel had briefly eluded to the details of the offence. Could these details be given to the Sub-Committee?
The full details had been requested, however, they had not yet been received from the Police.
- The Applicant was present. Could they describe the details of the event?
Yes. The Applicant explained that he would normally take details such as the customer's name and car registration, however, on that occasion, he had taken a lot more information about the customer and noted it down. He said he believed that he had been part of a Police 'Sting' Operation and had felt harassed by the mystery shoppers who had operated under Police guidance. He had been under the false impression that if the mystery shoppers were Police that the items would not really be stolen goods. He confirmed that he had refused several batches of cable due to the lack of documentation.
- Had you pleaded not guilty?
Yes.
- The Applicant's Counsel explained that the Applicant's defence had revolved around his honesty in the matter.

Closing Statements

The Licensing Authority made a brief closing statement to the Members of the Sub-Committee:-

- The legislation showed that the offence committed by the Applicant was a relevant offence.
- The Licensing Department did not feel they were able to make the decision on whether the Applicant was fit to be granted the licence and so therefore requested the Sub-Committee to do so.
- The question they posed to the Sub-Committee was: 'Was the relevant offence enough to revoke the Applicant's licence?'

The Applicant made a brief closing statement to the Members of the Sub-Committee:-

- The Applicant's Counsel pleaded with the Sub-Committee to grant the licence.

The Sub-Committee Members retired at 11.40am.

The Sub-Committee Members returned at 12.10pm.

The Sub-Committee Decision

The Legal Representative of the Sub-Committee read out the following decision.

“This was the decision of the Licensing Sub-Committee held at The Deane House on 8 May 2017.

The Licensing Sub-Committee was held to assess whether the Applicant was a suitable person to hold a SMDL in light of his recent application and revelations of his previous conduct.

In accordance with the Scrap Metal Dealers Act 2013 the Licensing Authority could only grant site licences to those site managers it had considered to be suitable persons to carry on the business as a scrap metal dealer. In determining this matter, the Licensing Authority was aware that they might have regard to any information they considered relevant which included, in particular, whether the Applicant had been convicted of any relevant offence. Relevant offence was an offence set out in the Schedule to the Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action Regulations 2013) and included offences of attempting or conspiring to commit any offence that fell within that Schedule. Handling stolen goods, where the offence related to scrap metal or environmental related matters, was a relevant offence under the Regulations.

The offence arose over a prolonged sting operation by two individuals who acted on behalf of the Police. The Applicant was aware that the goods offered were stolen and knew that they were being offered by Police Officers. He felt pressured to accept the items but also believed that they were not truly stolen because they were being offered by the Police. He had now accepted that this was a mistaken belief.

The Applicant noted that the offence was a relevant offence but asked that his licence was renewed and that he could continue to operate his business as he had done in the past without any other incident.

After careful consideration of all the circumstances of this matter, the Sub-Committee had concluded that the Applicant **WAS** a suitable person, in accordance with the Scrap Metal Dealers Act 2013 to carry on a business as a Scrap Metal Dealer and therefore the licence **SHOULD** be granted. The reasons for reaching this conclusion were that in view of the representations he had made during the hearing and his longevity in business for over thirty years, the Sub-Committee was satisfied that he was suitable. In particular the Sub-Committee had noted the decision made by the Traffic Commissioner in February 2017 and noted that he did not feel it necessary to refuse his licence.

Because of the Applicant's conviction, however, the Sub-Committee believed that it was appropriate to impose the following condition: that all scrap metal received must be kept in the form in which it was received for a period not exceeding 72 hours, beginning with the time when it was received.

That was the decision of this Licensing Sub-Committee.”

There was a right of appeal against this decision. Any appeal must be lodged with the Magistrates' Court within 21 days following notification of the decision.

The Chairman declared the meeting closed.
(The meeting closed at 12.30pm)

Taunton Deane Borough Council

Minutes of the Licensing Sub-Committee Hearing to consider a Hackney Carriage/Private Hire Drivers Licence held on Wednesday 10 May 2017 at 1.30pm in the John Meikle Room at The Deane House, Belvedere Road, Taunton, TA1 1HE.

Present: Councillor James (Chairman)
Councillors Mrs Hill and Morrell

Officers: Mark Banczyk-Gee (Licensing Officer), Fern Avis (Licensing Officer), Lesley Dolan (SHAPE Legal Services) and Clare Rendell (Democratic Service Officer).

Applicant: Taxi Driver A

Other: Taxi Driver A's Solicitor

(The meeting commenced at 1.30pm)

The Chairman introduced himself and his fellow Sub-Committee Members and officers then explained their roles. As well as acknowledging the documents he explained the procedure to be followed during this meeting of the Sub-Committee.

The Licensing Officer introduced his previously circulated report. Members were requested to consider whether a Hackney Carriage/Private Hire Licensed Driver, **Taxi Driver A**, should continue to be licensed by Taunton Deane Borough Council (TDBC).

Taxi Driver A was currently licensed by TDBC to act as a Hackney Carriage/Private Hire Vehicle Driver and his current licence was due to expire on 25 October 2017.

On the 28 March 2017, Taxi Driver A reported to the Licensing Department that he had six points on his driving licence.

Further details of events were given during the Licensing Officer's report.

Taxi Driver A's Solicitor presented his case to the Sub-Committee.

During the proceedings various questions were asked of Driver A by Members of the Sub-Committee, the Council's Legal Representative and the Licensing Officer. Driver A was also given the opportunity to ask questions.

Closing Statements

Taxi Driver A's Solicitor made a brief closing statement to the Members of the Sub-Committee.

The Sub-Committee Members retired at 2.40pm.

The Sub-Committee Members returned at 3.00pm.

The Sub-Committee Decision

The Legal Representative of the Sub-Committee read out the following decision:-

“This was the decision of the Licensing Sub-Committee held at The Deane House on 10 May 2017.

To consider the matter of Taxi Driver A, a licensed Hackney Carriage/Private Hire Driver with this Authority.

The Sub-Committee had reached its decision after representations from the Licensing Department and Taxi Driver A, via his Solicitor, were heard.

The Sub-Committee would allow Taxi Driver A to continue to be a Hackney Carriage/Private Hire Licensed Driver with this Authority.

These proceedings would not prejudice Taxi Driver A’s renewal application which was due in October 2017. This was subject to Taxi Driver A not accruing any further penalty points on his driving licence and also provided that in the meantime Taxi Driver A would undertake a speed awareness course.

The fit and proper person test had not been breached in this case.

There was a right of appeal against this decision. Any appeal must be lodged with the Magistrates’ Court within 21 days following notification of the decision.

That was the decision of this Licensing Sub-Committee.”

The Chairman declared the meeting closed.

(The meeting closed at 3.05pm)

Taunton Deane Borough Council - Licensing Committee – Forward Plan 2017

Meeting	DRAFT AGENDA ITEMS	LEAD OFFICER
13 June 2017	Licensing Update Report Hackney Carriage/Private Hire Drivers Policy Update Street Trading Policy Review Overview of Vaping Rules Sub-Committees – Minutes, Appeal Information Forward Plan	Mark Banczyk-Gee John Rendell and Alison Evens Fern Avis Update Report Clare Rendell
23 August 2017	Licensing Update Report Sub-Committees – Minutes, Appeal Information Forward Plan	John Rendell
15 November 2017	Licensing Update Report Sub-Committees – Minutes, Appeal Information Forward Plan	John Rendell
	Licensing Update Report Sub-Committees – Minutes, Appeal Information Forward Plan	John Rendell

Licensing Committee – 13 June 2017

Present: Councillors Mrs Blatchford, Brown, Davies, Miss Durdan, Mrs Gunner, Hunt, James, R Lees, Morrell, Nicholls and Sully.

Officers: John Rendell (Licensing Manager), Alison Evens (Licensing Officer), Fern Avis (Licensing Officer) and Clare Rendell (Democratic Services Officer)

Other: Councillor Berry

(The meeting commenced at 6.15 pm)

9. Appointment of Chairman

Resolved that Councillor Miss Durdan be appointed Chairman of the Licensing Committee for the remainder of the Municipal Year.

10. Appointment of Vice-Chairman

Resolved that Councillor James be appointed Vice-Chairman of the Licensing Committee for the remainder of the Municipal Year.

11. Apologies/Substitution

Apologies: Councillors Gage, Mrs Hill, Mrs Lees and Ross.

Substitution: Councillor R Lees for Mrs S Lees.

12. Minutes

The minutes of the meeting of the Licensing Committee held on 22 February 2017 were taken as read and were signed.

13. Licensing Service Update Report

Considered report previously circulated, which provided an update on the activities of the Council's Licensing Service, changes to legislation, current consultations and other general Licensing matters.

A summary of the activity and performance of the Licensing Service since the last meeting of the Committee was as follows:-

- The performance of the Licensing Service was measured against the number of applications that were completed within 14 days of them being determined. The target was 95%.
- This target had been reached between 1 January and 31 March 2017.

- This was the third consecutive quarter that the service had achieved its target.
- The performance of the service was remarkable and testament to the Licensing Manager, who was responsible for the positive change within the department.

Members were provided with a comparison of the number of applications received between January and March 2017 for the preceding two years and a summary of the numbers of licenses in force and notices given as at 18 May 2017.

There had been an increase in enquiries and subsequent applications in relation to Premises Licences for festival style events. There had also been an increase in street trading enquiries raised by businesses and individuals who had sought to trade in the town centre. Economic Development and County Highways were responsible for the majority of the decisions and so therefore it was considered that a yearly street trading licence would be granted to Taunton Deane Borough Council (TDBC) which allowed Economic Development the flexibility to control the town centre traders and the impact on the character of the town.

The numbers of service requests received by the service between January and March 2017, compared with the previous two years were also reported. There were more service requests recorded in 2015 and 2016 due to improved record keeping.

Since 6 April 2017, all applications received for Licensing Act 2003 licences required proof of the right to work in the United Kingdom (UK) to be provided by the applicant. This applied to the following licences:-

- Personal Licences;
- Grant of Premises Licences;
- Full Variation of Premises Licences;
- Transfer of Premises Licences; and
- Interim Authority Notices.

All the forms had been updated and all applications had been sent to the Home Office to be checked.

Vaping and e-cigarettes was a subject that had been brought up by the taxi trade in respect of smoking in Hackney Carriages/private hire vehicles. The question had been 'was this smoking'? If it was not, then clearly drivers/passengers could vape in vehicles. A short report was presented to the Committee on the current national position on vaping.

Hackney Carriage/private hire drivers and operators had also sought guidance in the area of CCTV recording in their vehicles. Several drivers had already installed CCTV equipment in their vehicles. To ensure uniformity and legality, the Licensing Officer had compiled a report which was presented to the Committee.

In March 2017 new guidance had been produced by the Committee of Advertising Practice which had followed a review carried out by the Advertising Standards Agency into misleading advertising practices by private door-to-door collection companies. Problems with charitable collection bags issued by commercial companies had included:-

- Recipients were given the impression they were donating directly to a charity when they were not;
- The companies had not provided their name or commercial status on the front of the collection bags;
- Undue prominence was given to a charity's name and registration number on the collection bags; and
- The company name was not given equal prominence when it appeared alongside a charity's name.

This new guidance provided examples of the type of wording and presentation on the collection bags that were in line with the new rules.

During the discussion of this item, the following points were raised:-

- Members were pleased with the update report.
- Members requested whether it would be possible to include different performance indicators within the update report.
- Concern was raised about the section on vaping being allowed in taxi vehicles.

The Licensing Manager advised the Members that his opinion would be that vaping would not be condoned in vehicles as it would be classed as unprofessional behaviour. For the enforcement to be kept straightforward, the view was that vaping should be prohibited.

- Members raised concern on the wording used in several sections of the report on use of CCTV in taxi vehicles and also the possibility of inappropriate use of the recordings.

This would be revised by the Licensing Department.

Resolved that the report be noted.

14. Proposal to amend the standard conditions attached to licences to act as the drivers of Hackney Carriage and private hire vehicles

Considered report previously circulated, concerning a proposed amendment to the standard conditions attached to licences to act as the drivers of Hackney Carriage and private hire vehicles, which introduced a requirement for licence holders to notify the licensing authority of any endorsements made against their Driver and Vehicle Licensing Agency (DVLA) driving licence.

Hackney Carriage and private hire drivers were controlled by two pieces of legislation; the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 gave District Councils the power to suspend, revoke or refuse to renew a drivers licence where the holder had been convicted of an offence which involved dishonesty, indecency, violence or had been convicted of an offence under or had failed to comply with the provisions of the Local Government (Miscellaneous Provisions) Act 1976 or the Town Police Clauses Act 1847.

When the authority determined the fitness and propriety of an applicant or licence holder, three of the most significant considerations were:-

- An individuals' health;
- Any criminal history, for example, the existence of any convictions, cautions, etc; and
- The existence of any convictions or endorsements on their DVLA driving licence.

Whilst the expectation was that all applicants would have a clean DVLA driving licence, the reality was that many individuals who had applied had, at some point, received convictions or endorsements.

Condition 17, in the Private Hire, Hackney Carriage Driver, Vehicle and Operators Handbook (more commonly known as the Taxi Handbook), required the holder of the licence to inform the Council in writing within 72 hours if charged or convicted of any offences that had occurred since the granting of their licence. However, this did not include the disclosure of any endorsements received on their DVLA driving licence.

Several motoring offences were often dealt with by fixed penalty notices and endorsements being issued. Because in the current policy, endorsements were not reported and Hackney Carriage and private hire vehicle driver licences could last up to three years, it was possible the authority was putting the public at risk.

During the discussion of this item, the following points were raised:-

- Members requested more information on the 'fit and proper person' test. This had been raised at a recent Sub-Committee.
Each Council had their own rules on what a 'fit and proper person' was. The Taxi Handbook gave the information on what TDBC Licensing Department used. More detailed information was given within the Sub-Committee reports and this information was taken from 'Taxis, Licensing Law and Practice' by James Button. This publication was often used as guidance by the department.
- Members requested more detailed information on what was classed as 'fit and proper' for members of the public.
The Licensing Department had produced a guide for new applicants, which was available on the Council's website. The Taxi Handbook was used once the licence was granted.
- During a recent Sub-Committee, several sections within the Taxi Handbook had been highlighted that needed amending. A full review of the document was requested.
The Licensing Manager accepted that the Taxi Handbook needed amending and would add the review to the Forward Plan.

Resolved that condition 17 of the Private Hire and Hackney Carriage Driver, Vehicle and Operators Handbook (more commonly referred to as the Taxi Handbook) be changed to read - 'The Licensee must inform the Licensing Authority in writing within 72 hours if charged or convicted of any offence or upon endorsement of their DVLA licence, since granting of the Hackney Carriage/private hire vehicle drivers licence'.

15. Background checks for Hackney Carriage and private hire vehicle drivers and would be drivers who specifically have lived outside of the United Kingdom (UK)

Considered report previously circulated, concerning a recommendation to replace the current policy in respect of background checks for those applying for the grant or renewal of a Hackney Carriage/private hire driver's licence who had lived outside of the UK, at any point, since the age of ten.

The Local Government (Miscellaneous Provisions) Act 1976 stated that a Local Authority should not grant a licence unless they were satisfied the applicant was a fit and proper person.

The term 'fit and proper person' was not legally defined and the Local Government (Miscellaneous Provisions) Act 1976 allowed the Local Authority to 'require an applicant to submit to the Local Authority such information that they might reasonably consider necessary to enable them to determine whether the licence should be granted or whether conditions should be attached to any such licence'.

Due to the nature of the Hackney Carriage/private hire drivers' role, it was important that the Authority checked the background/history of each applicant in order to make an informed decision about granting them a licence, specifically whether they had any convictions, cautions, reprimands or warnings. It was Council policy that once licensed, the holder of the licence applied for a new enhanced disclosure with the Disclosure and Barring Service (formally the Criminal Records Bureau) which would establish if they had any convictions.

Until recently the Licensing Team had not imposed the policy of the Taxi Handbook to obtain background information from applicants who had lived outside of the UK. Introducing a more robust policy to gather background information from applicants that had lived outside of the UK for more than six months would ensure that the Council did the best it could to protect the public.

It was unlikely that introducing the proposed amendment to the policy would have an adverse effect on drivers who applied to become a Hackney Carriage/private hire driver.

During the discussion of this item, the following points were raised:-

- Members agreed that the proposed revision of the policy was a good idea.
- Members requested that when the policy was written, that the department checked that the policy would be relevant after the UK had left the European Union.

Resolved that:-

- 1) The proposal to replace the Councils current policy be approved; and
- 2) It be agreed that this new policy be applied to all new applications with immediate effect and to come into effect from 1 January 2018 for existing drivers, to allow time for the necessary paperwork to be obtained.

16. Street Trading

Considered report previously circulated, concerning an overview of the Street Trading Policy and Procedure of the Council's Licensing Service, as requested by Members of the Committee at the meeting on 22 February 2017.

Street trading was an activity that required consent or a licence from the relevant Local Authority, if that Authority had adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. Taunton Deane Borough Council (TDBC) had adopted Schedule 4 of this Act at a meeting of Full Council held on 10 December 1985 and had designated all 'streets' in the Borough as 'consent streets' in the process, which meant that street trading was prohibited in those areas without consent from the Council. Under those arrangements, the Council currently authorised trading from public land and private land. The purpose of the regulation was to prevent obstructions on land, danger, nuisance or annoyance.

TDBC issued street trading consents rather than licences. The difference between a licence and a consent related to the level of formal procedure involved and legal protection offered to the trader. Generally a licence was more suitable for a fixed, market-type trading environment. Consents provided a more flexible means of controlling street trading and were not limited by statute in their refusal or revocation.

There were 21 consents currently in force. These authorised:-

- 2 regular markets;
- 11 traders within the Town Centre of Taunton;
- 2 traders who were mobile within the Borough and visited various sites;
- 5 traders who occupied pitches on private land, such as an industrial estate; and
- 1 trader who had permission to trade within Council owned public spaces, such as Vivary Park.

During the discussion of this item, the following points were raised:-

- Members requested clarification on the term 'sanitary accommodation' within the policy.
The Licensing Manager gave what he had understood to be the meaning of the term. Sanitary accommodation related to the toilet facilities.
- Members queried some of the wording used in the policy on Mobile Trading and the use of chimes.
An explanation of the wording was given by the Licensing Manager.
- Concern was raised about the fees charged to applicants. It was suggested that the fees were too low and did not cover the cost of utilities.
The Licensing Manager advised the Committee Members that the department had to be careful with the fees they charged customers. The department was not allowed to make a profit; they were only allowed to cover the costs incurred.
- Members were pleased with the review, but requested that it was checked thoroughly before it was published. A full review to include fees and timescales was requested.
A full review would be added to the Forward Plan for next year.

Resolved that the report be noted.

17. Minutes of the Licensing Sub-Committees

Considered minutes previously circulated of recent meetings of the Licensing Sub-Committee.

Resolved that the minutes be noted for information.

18. **Forward Plan**

Members discussed items that they would like to be brought before the Committee at the next meeting. These were identified as:-

- A full review of the Taxi Handbook; and
- A full review of Street Trading Consents.

Resolved that these items would be added to the Licensing Committee's Forward Plan.

(The meeting ended at 7.25pm)