





**Brighton & Hove
City Council**

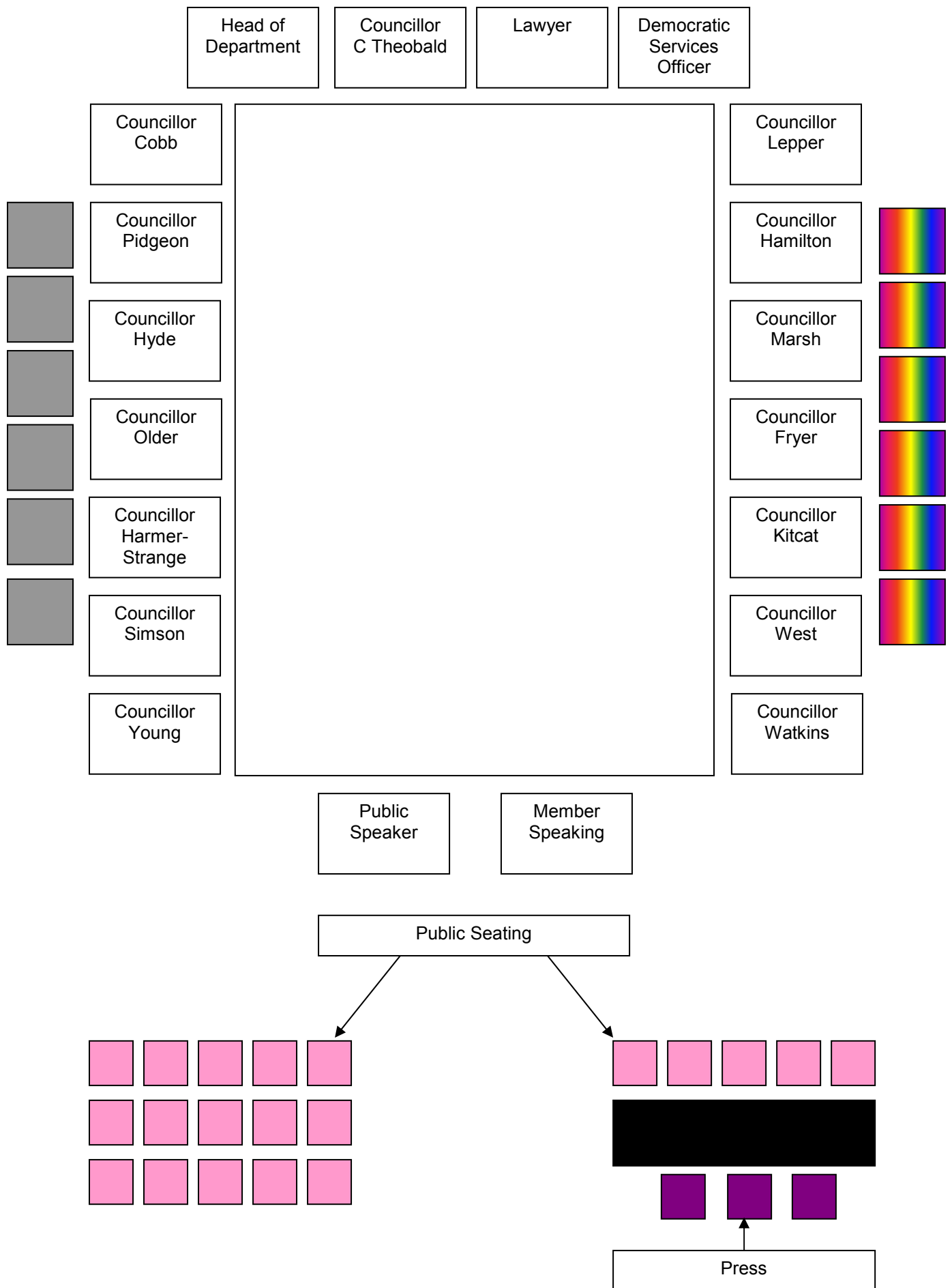
Licensing Committee

(Non-Licensing Act 2003 Functions)

Title:	Licensing Committee (Non Licensing Act 2003 Functions)
Date:	27 November 2008
Time:	3.00pm
Venue	Council Chamber, Hove Town Hall
Members:	Councillors: C Theobald (Chairman), Lepper (Deputy Chairman), Mrs Cobb, Fryer, Hamilton, Harmer-Strange, Hyde, Kitcat, Marsh, Older, Pidgeon, Simson, Watkins, West and Young
Contact:	Caroline De Marco Democratic Services Officer 01273 291063 caroline.demarco@brighton-hove.gov.uk

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Democratic Services: Meeting Layout



AGENDA

Part One

Page

9. PROCEDURAL BUSINESS

- (a) Declaration of Substitutes - Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.
- (b) Declarations of Interest by all Members present of any personal interests in matters on the agenda, the nature of any interest and whether the Members regard the interest as prejudicial under the terms of the Code of Conduct.
- (c) Exclusion of Press and Public - To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: Any item appearing in Part 2 of the Agenda states in its heading either that it is confidential or the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.

A list and description of the categories of exempt information is available for public inspection at Brighton and Hove Town Halls.

10. MINUTES OF THE PREVIOUS MEETING

1 - 4

Minutes of the meeting held on 19 June 2008 (copy attached).

11. CHAIRMAN'S COMMUNICATIONS

12. CALLOVER

NOTE: Notices of Motion, Deputations, Petitions and Letters will be reserved automatically.

13. PUBLIC QUESTIONS

(The closing date for receipt of public questions is 12 noon on 20 November 2008)

No public questions received by date of publication.

14. HACKNEY CARRIAGE/PRIVATE HIRE TRADE ETHNICITY MONITORING

5 - 20

Report of Director of Environment (copy attached).

Contact Officer: Martin Seymour

Tel: 296659

Ward Affected: All Wards

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

15. AMENDMENT TO HACKNEY CARRIAGE FARE FORMULA 21 - 24

Report of Director of Environment (copy attached).

Contact Officer: Martin Seymour Tel: 296659

Ward Affected: All Wards

16. UNMET DEMAND SURVEY 25 - 30

Report of Director of Environment (copy attached).

Contact Officer: Martin Seymour Tel: 296659

Ward Affected: All Wards

17. STREET TRADING 31 - 60

Report of Assistant Director of Public Safety (copy attached).

Contact Officer: Jean Cranford Tel: 29-2550

Ward Affected: All Wards

18. LICENSING COMMITTEE FUNCTIONS RESERVED TO COMMITTEE 61 - 76

Report of Director of Strategy & Governance (copy attached).

Contact Officer: Rebecca Sidell Tel: 29-1511

Ward Affected: All Wards

19. ITEMS TO GO FORWARD TO COUNCIL

To consider items to be submitted to the 29 January 2009 Council meeting for information.

In accordance with Procedural Rule 24.3a the Committee may determine that any item is to be included in its report to Council. In addition each Minority Group may specify one further item to be included by notifying the Chief Executive by 10.00am on 19 January 2009.

The City Council actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public. Provision is also made on the agendas for public questions to committees and details of how questions can be raised can be found on the website and/or on agendas for the meetings.

The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fifth working day before the meeting.

Agendas and minutes are published on the council's website www.brighton-hove.gov.uk. Agendas are available to view five working days prior to the meeting date.

Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested.

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

For further details and general enquiries about this meeting contact Caroline De Marco, (01273 291063, email caroline.demarco@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

Date of Publication - Wednesday, 19 November 2008

BRIGHTON & HOVE CITY COUNCIL

**LICENSING COMMITTEE
(NON LICENSING ACT 2003 FUNCTIONS)**

3.00PM – THURSDAY 19 JUNE 2008

COUNCIL CHAMBER - HOVE TOWN HALL

MINUTES

Present: Councillor C Theobald (Chairman); Councillors Barnett, Cobb, Fryer, Hyde, Kitcat, Lepper (Deputy Chair), Marsh, Older, Watkins and West.

Apologies: Councillors Harmer-Strange, Hamilton, Pidgeon and Young.

PART ONE

ACTION

1. PROCEDURAL BUSINESS

1A Declarations of Substitutes

1.1 Councillor Barnett substituted for Councillor Pidgeon.

1B Declarations of Interest

1.2 There were none.

1C Exclusion of Press and Public

1.3 The Committee considered whether the press and public should be excluded from the meeting during the consideration of any items contained in the agenda, having regard to the nature of the business to be transacted and the nature of the proceedings and the likelihood as to whether, if members of the press and public were present, there would be disclosure to them of confidential or exempt information as defined in Schedule 12A, Part 5A, Section 100A(4) or 100 1 of the Local Government Act 1972 (as amended).

1.4 **RESOLVED** - That the press and public be not excluded from the meeting.

2. MINUTES

2.1 **RESOLVED** – a) That the minutes of the meeting held on 14 February 2008 be approved and signed by the Chair as a correct

record.

b) That the minutes of the special meeting held on 28 April 2008 be approved and signed by the Chair as a correct record.

3. CALL OVER

3.1 **RESOLVED** – That all the items on the agenda be reserved for discussion.

4. CHAIRMAN'S COMMUNICATIONS

4.1 It was stated to the Committee the Department of Culture, Media and Sport Minister, Gerry Sutcliffe, has written to the Chief Executive because the government is concerned about the increase in lap dancing establishments and similar forms of adult entertainment.

DCMS is gauging the concern of local authorities and other stake holders. The Home Office and DCMS are seeking views on this issue to see whether lap dancing is adequately controlled by licensing legislation or planning or public decency legislation (for copy see minute book).

The Chairman outlined a response that would be sent to the DCMS/Home Office. The response detailed the history of lap-dance clubs in the city and argued that local authorities should be permitted to control the localities, numbers and management of these premises as they do for sex shops and cinemas.

4.2 An update was given on Taxis. It was noted that since the meeting on 14 February seven warnings/cautions had been issued to drivers and that three licences had been suspended.

5. PUBLIC QUESTIONS

5.1 There were no public questions.

6. TO CONFIRM THE ESTABLISHMENT OF THE LICENSING COMMITTEE (NON-LICENSING ACT 2003 FUNCTIONS)

6.1 The Solicitor to the Committee explained that it was necessary for the Committee to formally confirm the Establishment of the (Non Licensing Act 2003 Functions) Licensing Committee and its constituent panels.

6.2 **RESOLVED** - That the establishment of the (Non Licensing Act 2003 Functions) Licensing Act Committee and its constituent panels be confirmed.

7. REPORT ON THE EXTENDED TRADING HOURS FOR UPPER GARDNER STREET MARKET

7.1 The Head of Environmental Health & Licensing summarised the report on extended trading hours for the Upper Gardner Street Market (for

copy see minute book).

- 7.2 The Committee stated that they would like to be involved in the review of the Council's Street Trading Policy when work begins.
- 7.3 Councillor Fryer proposed three amendments to the recommendations. They were:
- 1) That "for another six months" be added to recommendation 2.1.
 - 2) That "until we are satisfied that the market is achieving its potential" is added to recommendation 2.2.
 - 3) That a working group should be established by the Cabinet Member for Environment and that this Group should involve traders, ward councillors, local residents and all other stakeholders.

Councillor West seconded the proposals.

- 7.4 There was a debate between members before the amendments were voted on in turn. The three amendments were rejected with 3 in support of them, 7 against and 2 abstentions. The recommendations as set out in the report went to the vote and were passed with 8 for and 4 abstentions.
- 7.5 **RESOLVED** – 1) That street trading consent for Upper Gardner Street with conditions limiting trading periods for trading on Saturdays between 0700 and 1700 hours be continued.
- 2) Further monitoring and enforcement visits are arranged by officers and that additional reports are not required unless there is a change in circumstances, e.g. if highlighted by the planned review of the council's street trading policy.

8 ITEMS TO GO FORWARD TO COUNCIL

- 8.1 There were none.

The meeting concluded at 3.35pm

Signed

Chair

Dated this day of 2008

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 14

Brighton & Hove City Council

Subject: Hackney Carriage / Private Hire Trade Ethnicity Monitoring
Date of Meeting: 27 November 2008
Report of: *Director of Environment*
Contact Officer: Name: *Martin Seymour* Tel: 29-6659
E-mail: hco@brighton-hove.gov.uk
Wards Affected: All

FOR GENERAL RELEASE/ EXEMPTIONS

1. SUMMARY AND POLICY CONTEXT:

To report the results of Ethnicity Monitoring of the Hackney Carriage / Private Hire Trade for 2007/08.

2. RECOMMENDATIONS:

2.1 That Committee note the results of Ethnic Monitoring.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

All applications received by the Hackney Carriage Office for the licensing of vehicles and drivers are monitored for Ethnic background. The results of this monitoring are shown in appendix 1.

Ethnic monitoring is undertaken to ensure that the waiting list is maintained and operated in a fair and transparent way as recommended by the Equality and Human Rights Commission.

4. CONSULTATION

4.1 This matter has been discussed at the council's hackney carriage and private hire consultation forum where all members of that forum are free to express their opinions. The forum members have delegated negotiations to selected representatives. Monitoring is carried out at the request of the forum who are satisfied with the results.

5. FINANCIAL & OTHER IMPLICATIONS:

- 5.1 Revenue: The full cost of providing the ethnicity monitoring report is met from within the revenue budget for taxi licensing.
Capital: There are no capital cost implications.

Finance Officer Consulted: Karen Brookshaw

Date: 04/11/2008

Legal Implications:

- 5.2 There are no direct legal implications

Lawyer Consulted: Rebecca Sidell

Date: 13/11/2008

Equalities Implications:

- 5.3 In order to improve services to disabled groups all new drivers are required to attend equalities and disabilities awareness and customer care training. Drivers are also tested to ensure that they meet a basic standard of literacy.

Sustainability Implications:

- 5.4 The role of the taxi trade is included in the Local Transport Plan, which identifies it as a key element in providing sustainable transport choices. It creates important links in the transport network to other forms of sustainable transport providing a seamless connection. It will contribute to three of the government's four shared transport priorities – reducing congestion, improving air quality and accessibility. Use of taxis for school transport, licensed vehicles using bus lanes, locating ranks at railway stations and the city coach station, approved use of liquid petroleum gas all contribute to reducing congestion and moving passengers quickly.

Crime & Disorder Implications:

- 5.5 Sufficient late night transport to reduce public place violent crime is recognised in the community safety, crime reduction and drugs strategy. The presence of CCTV can be an important means of deterring and detecting crime.

Risk and Opportunity Management Implications:

- 5.6 The transport industry should be safe, profitable and be a positive experience for residents and visitors.

Corporate / Citywide Implications:

- 5.7 Tourism needs to provide a warm welcome to visitors and the tourism strategy depends upon effective partnership with transport operators particularly to achieve safe late night dispersal for the night time economy.

SUPPORTING DOCUMENTATION

Appendices:

- 1 - Overall Total Returns from Taxi Ethnicity Monitoring.

OVERALL TOTAL returns from Taxi ethnicity monitoring 2007 - 08

Type of application	Frequency	Percentage
Private hire vehicles	234	12.7
Hackney carriage drivers	752	40.8
Hackney carriage vehicles	335	18.2
First applications	77	4.2
Private hire drivers	328	17.8
Waiting list	116	6.3
Total	1842	100

ETHNICITY	Frequency	Total Percentage	Percentage	Census 2001 (age 16-74) across B&H
White British	1318	71.6	73.0	87.0%
White Irish	16	0.9	0.9	1.8%
White Other*	77	4.2	4.3	5.4%
Black or Black British - African	38	2.1	2.1	0.6%
Black or Black British – Caribbean	2	0.1	0.1	0.2%
Black/Black British – Other*	14	0.8	0.8	0.1%
Asian/Asian British - Bangladeshi	75	4.1	4.2	0.3%
Asian/Asian British - Indian	7	0.4	0.4	1.0%
Asian/Asian British - Pakistani	15	0.8	0.8	0.2%
Asian/Asian British – Other*	93	5.0	5.2	0.4%
Mixed – White & Black African	42	2.3	2.3	0.3%
Mixed – White & Asian	10	0.5	0.6	0.3%
Mixed – Other*	48	2.6	2.7	0.5%
Chinese	4	0.2	0.2	0.6%
Other*	46	2.5	2.5	0.8%
Total	1805	98.0	100.0	100%
no response	37	2.0	73.0	-

* **Others self classified as:** Afghan, African British, Anglo-Indian, Arab, Asian British, British Sri Lankan, Bulgarian, Coptic, Coptic Orthodox, Coptic Sudanese, Czech, Egyptian, French, German, German / African, Greek, Iranian, Iranian British, Iraqi, Israeli, Italian, Japanese, Jewish, Mauritian, Mediterranean, Middle Eastern, Moroccan, Nederland, North African, Orthodox, Persian, Polish, Portuguese, Spanish, Sudanese, Sudanese (Coptic Orthodox), Syrian, Turkish, U.S.A., Welsh, White African, White British and Libyan, Yemeni.

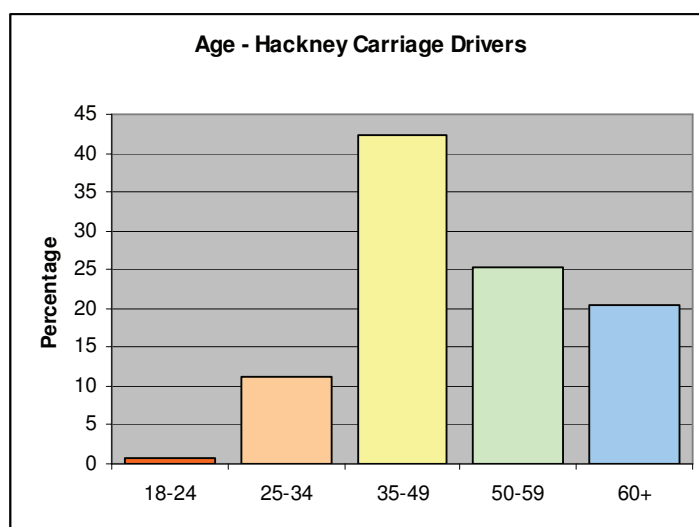
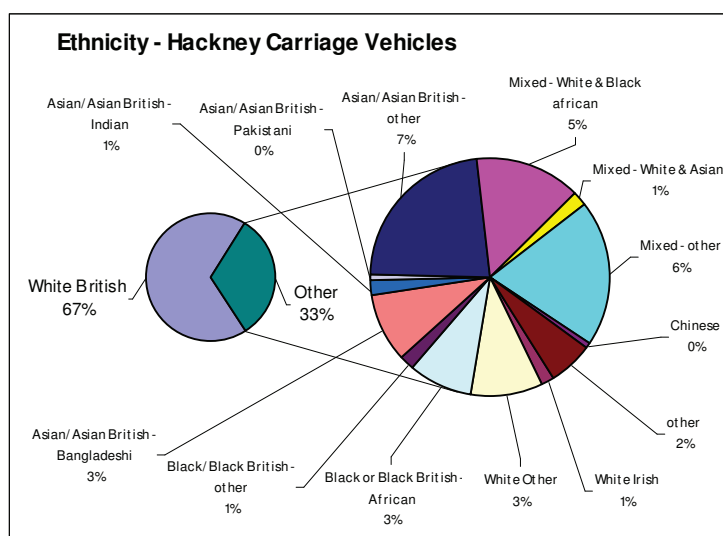
AGE	Frequency	Total percentage	Valid Percentage
18-24	15	0.8	0.8
25-34	218	11.8	12.2
35-49	805	43.7	45.0
50-59	430	23.3	24.0
60+	320	17.4	17.9
Total	1788	97.1	100.0
No response	54	2.9	

SEX	Frequency	Total Percentage	Valid Percentage
Female	103	5.6	6.1
Male	1596	86.6	93.9
Total	103	92.2	100.0
No response	1596	7.8	

Hackney Carriage Vehicles

AGE OF APPLICANT	Frequency	Percentage
18-24	1	0.3
25-34	38	11.9
35-49	115	36.1
50 – 59	93	29.2
60+	72	22.6
Total	319	100
No response	16	-

SEX OF APPLICANT	Frequency	Percentage
Female	16	5.3
Male	288	94.7
Total	304	100
No response	31	-



ETHNICITY OF APPLICANT → Hackney Carriage Vehicles	Frequency	Percentage
White British	222	67.9
White Irish	2	0.6
White Other	10	3.1
Black or Black British - African	9	2.8
Black or Black British - Caribbean	0	0
Black/Black British - other	2	0.6
Asian/asian British - Bangladeshi	10	3.1
Asian/Asian British - Indian	2	0.6
Asian/Asian British - Pakistani	1	0.3
Asian/Asian British - other	24	7.3
Mixed - White & Black african	15	4.6
Mixed - White & Asian	2	0.6
Mixed - other	21	6.4
Chinese	1	0.3
other	6	1.8
Total	327	100
No response	8	-

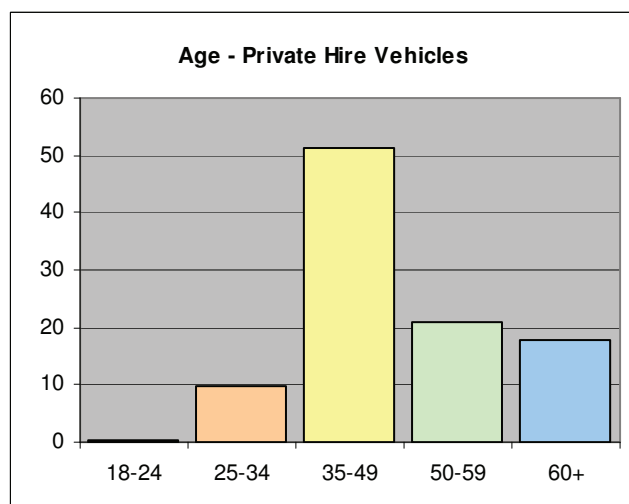
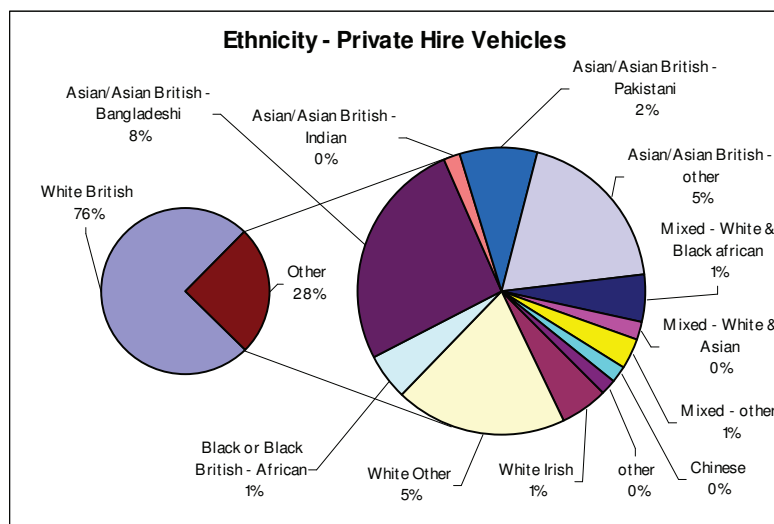
Other –

Afghan, Anglo-Indian, Asian British, Coptic Orthodox, Coptic Sudanese, Egyptian, German, Greek, Iranian, Israeli, Italian, Jewish, North African, Persian, Portuguese, Spanish, Sudanese (Coptic Orthodox), White African.

Private Hire Vehicles

AGE OF APPLICANT	Frequency	Percentage
18-24	1	0.4
25-34	22	9.7
35-49	116	51.3
50 - 59	47	20.8
60+	40	17.7
Total	226	100
No response	8	-

SEX OF APPLICANT	Frequency	Percentage
Female	9	4.2
Male	206	95.8
Total	215	100.0
No response	19	-



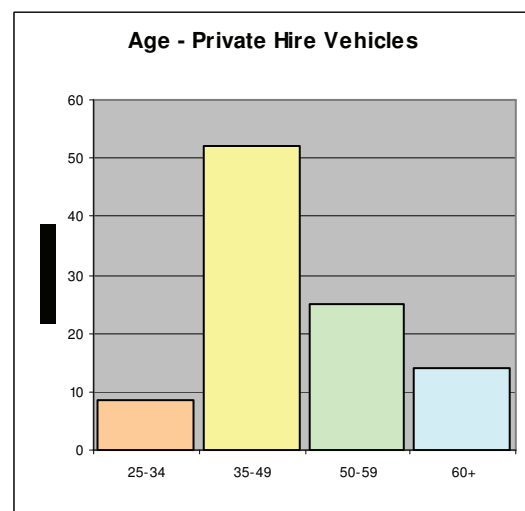
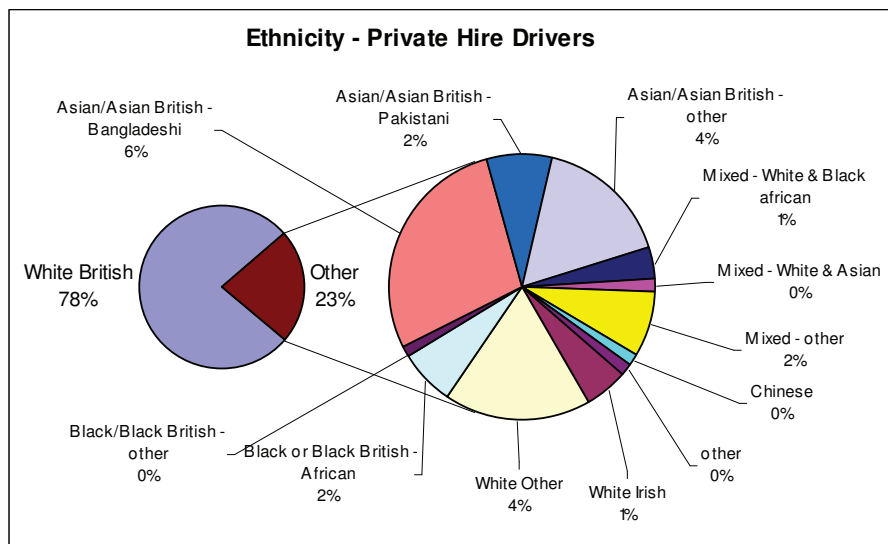
ETHNICITY OF APPLICANT - Private Hire Vehicles	Frequency	Percentage
White British	171	81.1
White Irish	3	0.7
White Other	11	5
Black or Black British - African	3	0.7
Black or Black British - Caribbean	0	0.0
Black/Black British - other	0	0
Asian/asian British - Bangladeshi	15	6.6
Asian/Asian British - Indian	1	0.4
Asian/Asian British - Pakistani	5	2.2
Asian/Asian British - other	11	4.8
Mixed - White & Black african	3	1.3
Mixed - White & Asian	1	0.4
Mixed - other	2	0.9
Chinese	1	0.4
other	1	0.4
Total	228	100
No response	6	-

* **Other** – Afghan; Arab, Bulgarian, French, Iranian, Iranian British, Italian, Japanese, Mediterranean, Persian, Polish, Sudanese, U.S.A., Welsh.

Private Hire Drivers

AGE OF APPLICANT	Frequency	Percentage
18-24	0	0
25-34	28	8.7
35-49	168	52.2
50 - 59	81	25.2
60+	45	14.0
Total	322	100
No response	6	-

SEX OF APPLICANT	Frequency	Percentage
Female	26	8.5
Male	280	91.5
Total	306	100
No repsonse	22	-



ETHNICITY OF APPLICANT - Private Hire Drivers	Frequency	Percentage
White British	251	77.2
White Irish	4	1.2
White Other	13	4.0
Black or Black British - African	5	1.5
Black or Black British - Caribbean	0	0
Black/Black British - other	1	0.3
Asian/asian British - Bangladeshi	21	6.5
Asian/Asian British - Indian	0	0
Asian/Asian British - Pakistani	6	1.8
Asian/Asian British - other	12	3.7
Mixed - White & Black african	3	0.9
Mixed - White & Asian	1	0.3
Mixed - other	6	1.8
Chinese	1	0.3
other	1	0.3
Total	325	100
No response	3	-

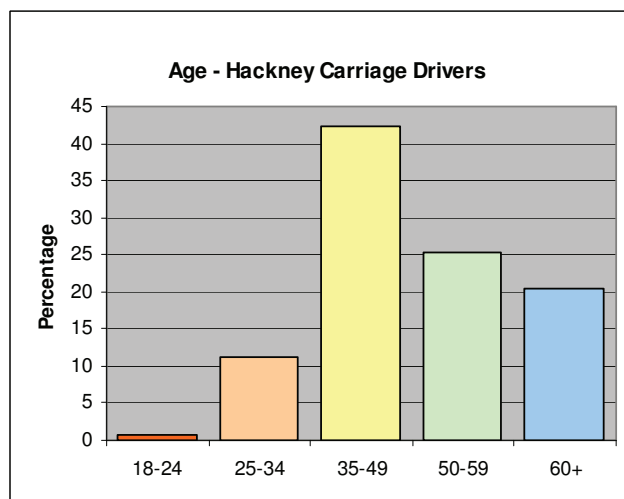
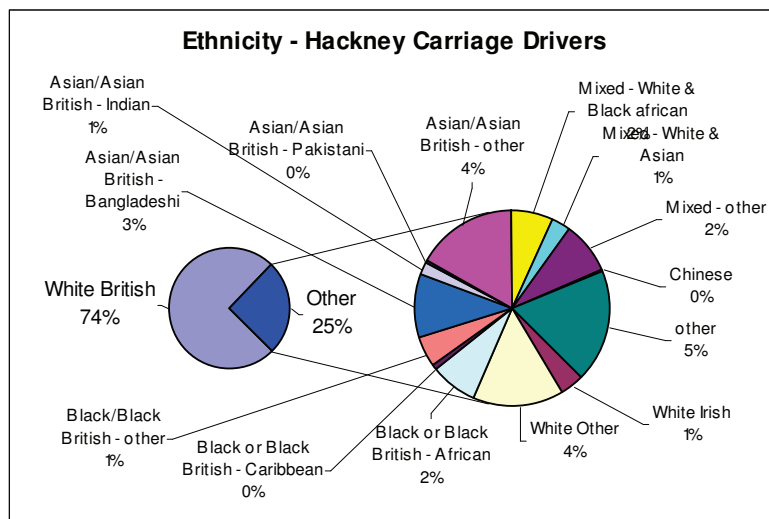
Other –

Afghan; Arab, Bulgarian, Egyptian, French, German-Spanish-Jewish, Iranian, Italian, Middle Eastern, Japanese, Jewish, Mediterranean, North African, Persian, Sudanese, Syrian, Turkish, U.S.A., White African.

Hackney Carriage Drivers

AGE OF APPLICANT	Frequency	Percentage
18-24	6	0.8
25-34	82	11.2
35-49	310	42.3
50 - 59	185	25.2
60+	150	20.5
Total	733	100
No response	19	

SEX OF APPLICANT	Frequency	Percentage
Female	44	6.3
Male	658	93.7
Total	702	100
No response	50	-



ETHNICITY OF APPLICANT – Hackney Carriage Drivers	Frequency	Percentage
White British	554	75.1
White Irish	7	0.9
White Other	28	3.8
Black or Black British - African	14	1.9
Black or Black British - Caribbean	1	0.1
Black/Black British - other	10	1.4
Asian/Asian British - Bangladeshi	19	2.6
Asian/Asian British - Indian	4	0.5
Asian/Asian British - Pakistani	1	0.1
Asian/Asian British - other	31	4.2
Mixed - White & Black african	13	1.8
Mixed - White & Asian	6	0.8
Mixed - other	15	2.0
Chinese	1	0.1
other	34	4.6
Total	738	75.1
No response	14	

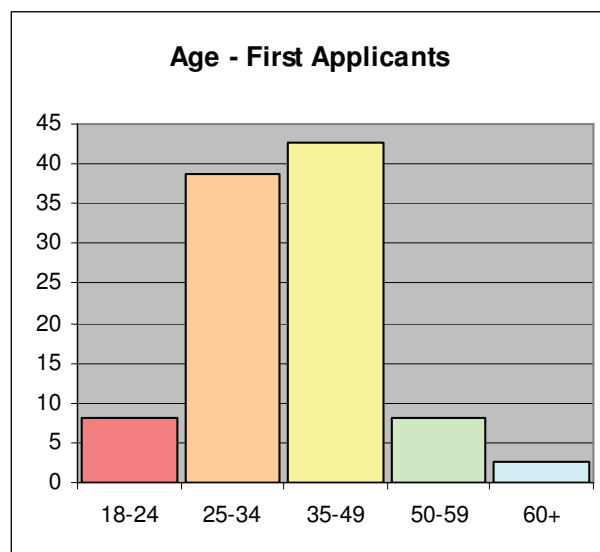
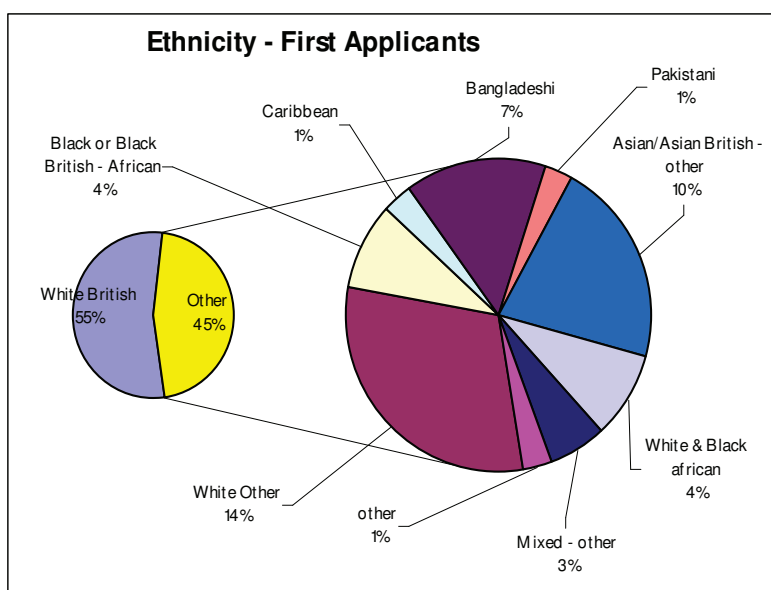
Other –

Afghan; African British, Arab, Asian British, British Sri Lanken, Coptic, Coptic Orthodox, Coptic Sudanese, Czech, Egyptian, Egyptian Orthodox, Greek, Iranian, Iranian British, Israeli, Italian, Jewish, Middle Eastern, Moroccan, North African, Persian, Polish, Sudanese, Sudanese (Coptic Orthodox), Turkish, Welsh, White African, White British and Libyan, Yemeni.

First Applications

AGE OF APPLICANT	Frequency	Percentage
18-24	6	8.0
25-34	29	38.7
35-49	32	42.7
50 – 59	6	8.0
60+	2	2.7
Total	75	100
No response	2	-

SEX OF APPLICANT	Frequency	Percentage
Female	3	4.1
Male	70	95.9
Total	73	100
No response	4	-



ETHNICITY OF APPLICANT – First Applicants	Frequency	Percentage
White British	40	54.8
White Other	10	13.7
Black or Black British - African	3	4.1
Black or Black British - Caribbean	1	1.4
Asian/Asian British - Bangladeshi	5	6.8
Asian/Asian British - Pakistani	1	1.4
Asian/Asian British - other	7	9.6
Mixed - White & Black african	3	4.1
Mixed - other	2	2.7
other	1	1.4
Total	73	100
No Response	4	

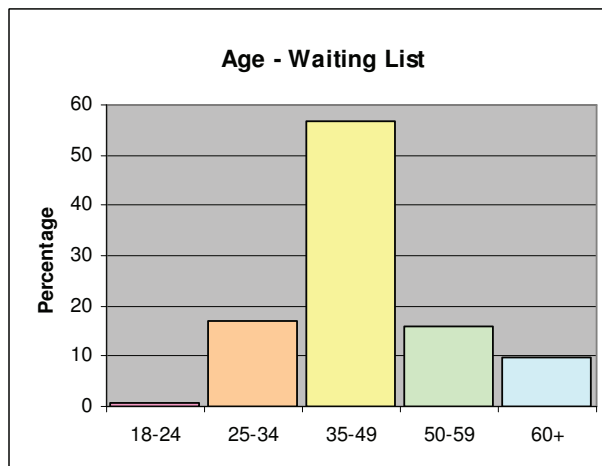
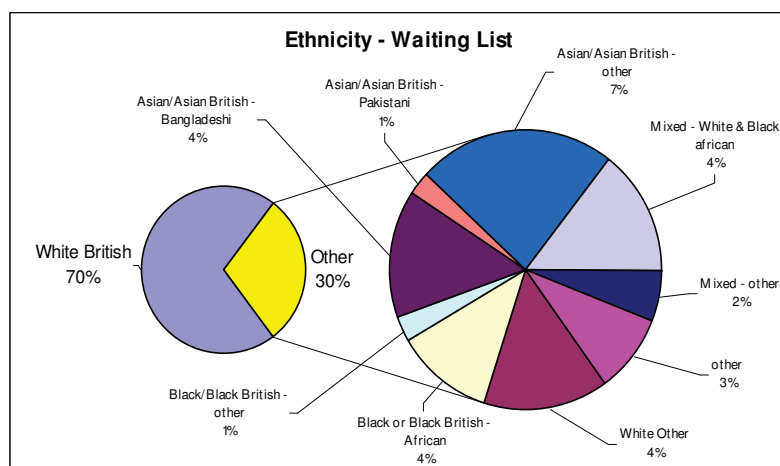
* Other –

Afghan; Arab, Czech, German / African, Iranian, Iraqi, Mauritian, Middle Eastern, Moroccan, Polish, Portuguese, Sudanese, Syrian, Turkish,

Waiting List

AGE OF APPLICANT	Frequency	Percentage
18-24	1	0.9
25-34	19	16.8
35-49	64	56.6
50 - 59	18	15.9
60+	11	9.7
Total	113	100
No response	3	-

SEX OF APPLICANT	Frequency	Percentage
Female	5	5.1
Male	94	94.9
Total	99	5.1
No response	17	-



ETHNICITY OF APPLICANT – Waiting List	Frequency	Percentage
White British	80	70.2
White Other	5	4.4
Black or Black British - African	4	3.5
Black/Black British - other	1	0.9
Asian/Asian British - Bangladeshi	5	4.4
Asian/Asian British - Pakistani	1	0.9
Asian/Asian British - other	8	7.0
Mixed - White & Black african	5	4.4
Mixed - other	2	1.8
other	3	2.6
Total	114	100
No Response	2	

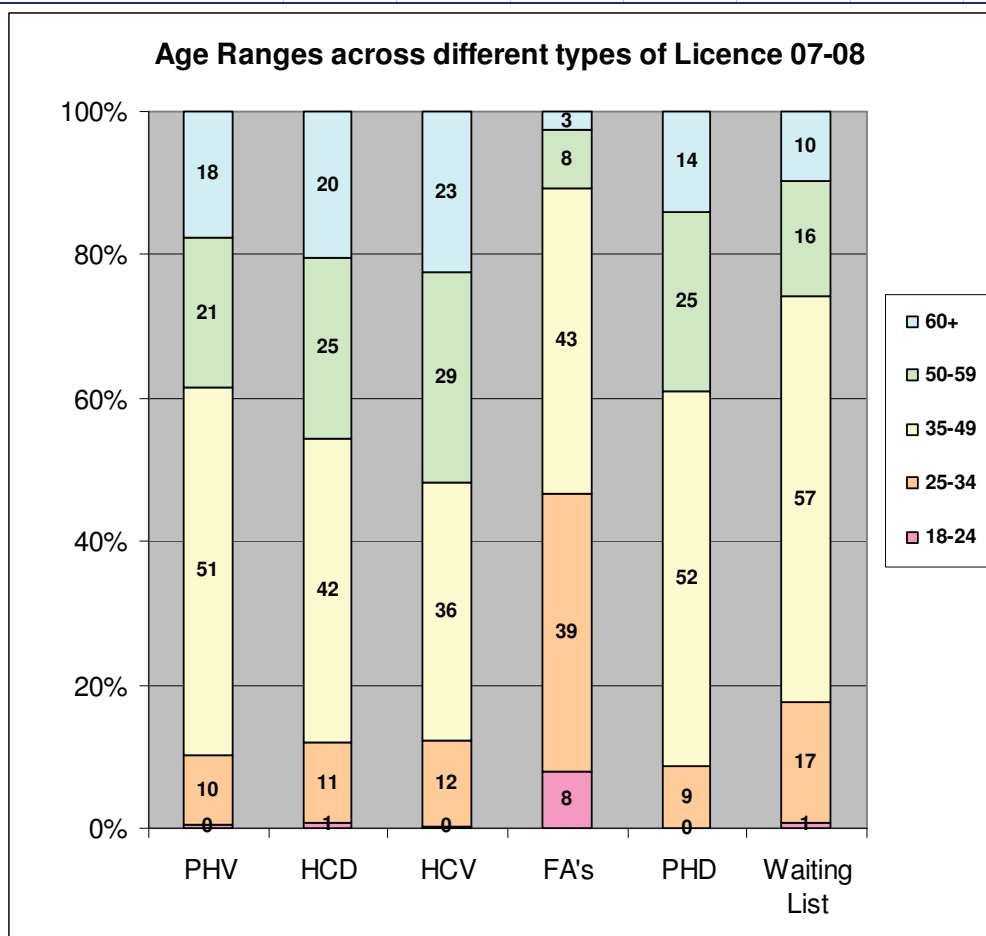
* Other –

Afghan; Arab, Egyptian, German, Iranian, Jewish, Nederland, Polish, Sudanese, Welsh, Yemeni.

Comparisons across application groups 2007 - 2008

Gender comparison across all application groups (percentage)

	PHV	HCD	HCV	FA's	PHD	Wait	TOTAL
Female	4.2	6.3	5.3	4.1	8.5	5.1	6.1
Male	95.8	93.7	94.7	95.9	91.5	94.9	93.9

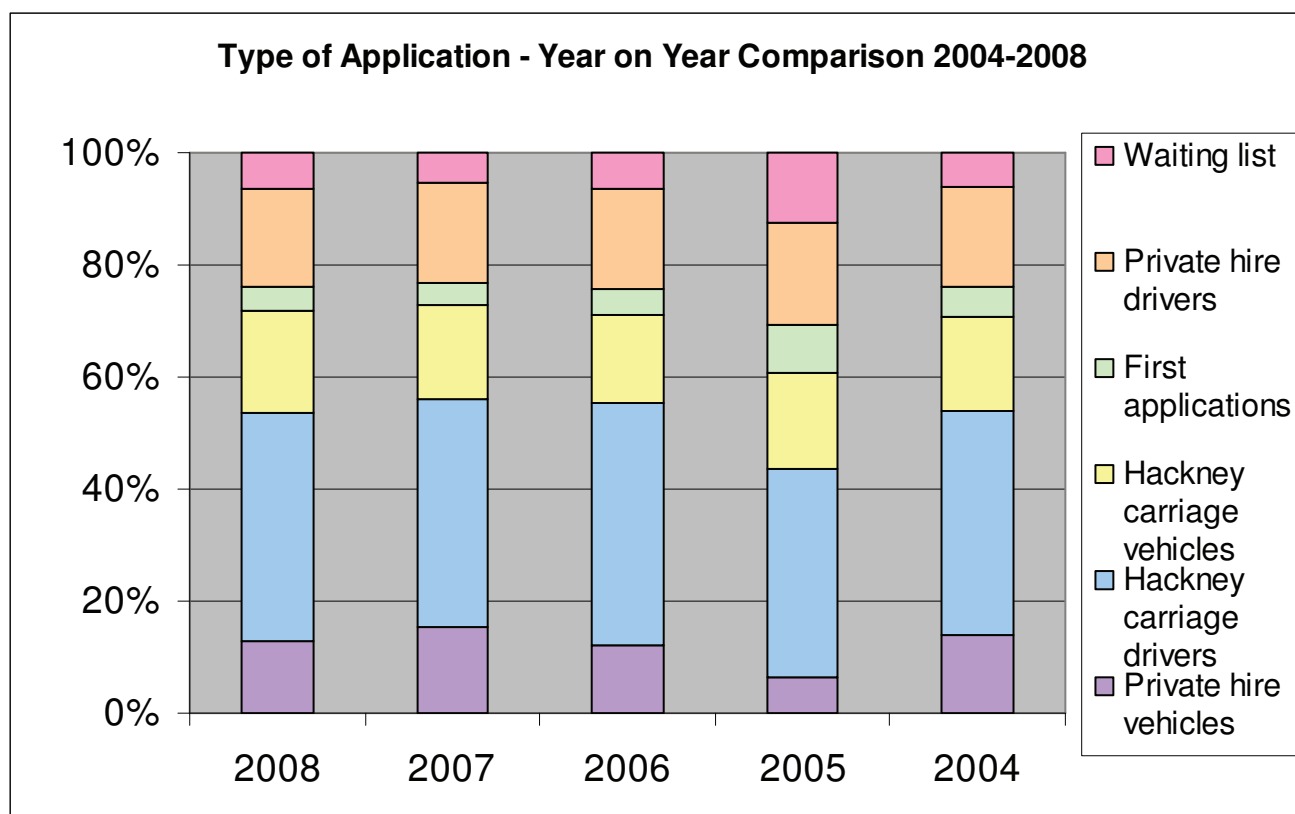


Percentage of ethnicity responses across all application groups

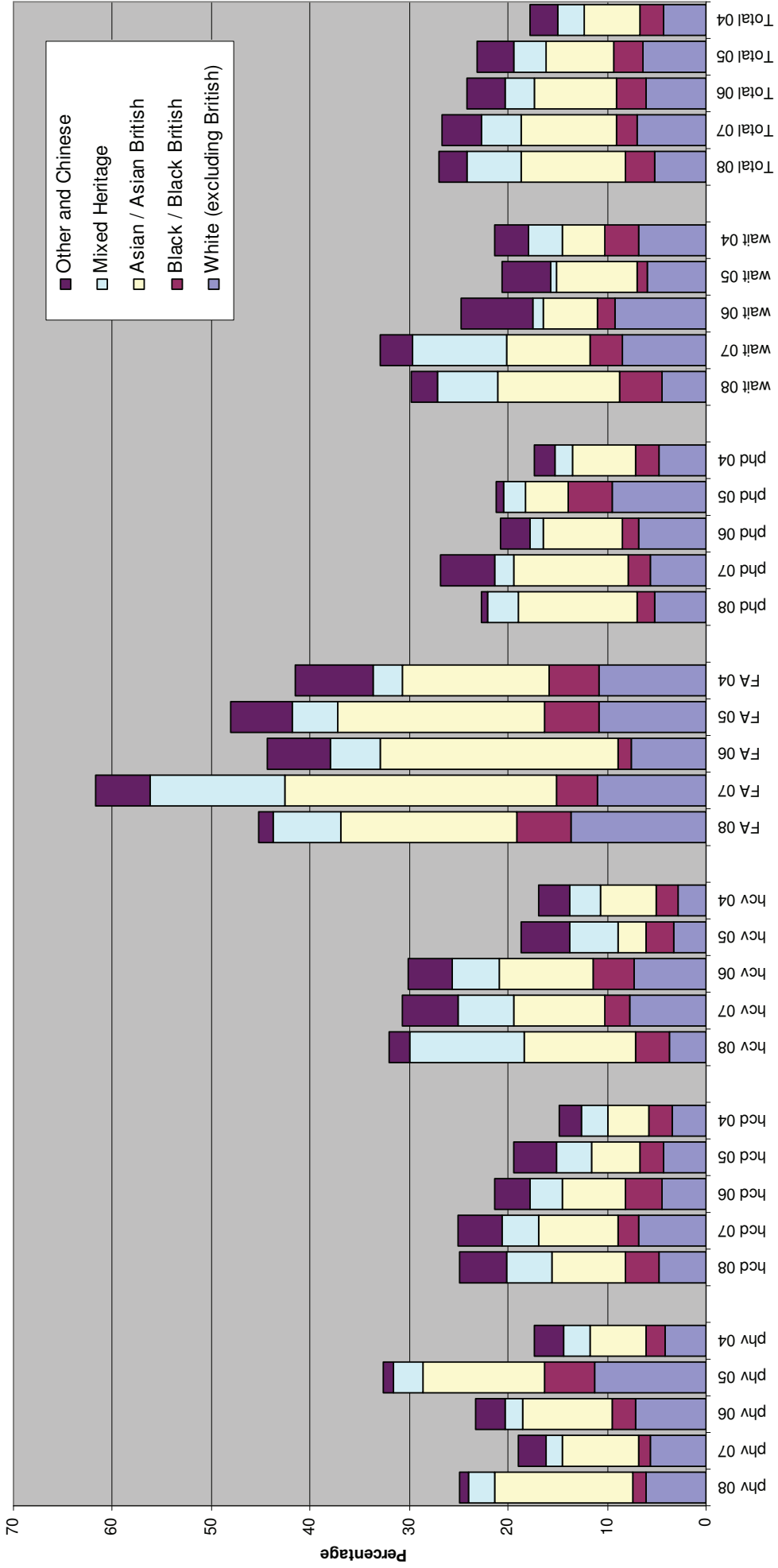
	PHV	HCD	HCV	FA's	PHD	Wait	TOTAL
White British	75.0	75.1	67.9	54.8	77.2	70.2	73.0
White Irish	1.3	0.9	0.6	0.0	1.2	0.0	0.9
White Other	4.8	3.8	3.1	13.7	4.0	4.4	4.3
Black or Black British - African	1.3	1.9	2.8	4.1	1.5	3.5	2.1
Black or Black British - Caribbean	0.0	0.1	0.0	1.4	0.0	0.0	0.1
Black/Black British - other	0.0	1.4	0.6	0.0	0.3	0.9	0.8
Asian/asian British - Bangladeshi	6.6	2.6	3.1	6.8	6.5	4.4	4.2
Asian/Asian British - Indian	0.4	0.5	0.6	0.0	0.0	0.0	0.4
Asian/Asian British - Pakistani	2.2	0.1	0.3	1.4	1.8	0.9	0.8
Asian/Asian British - other	4.8	4.2	7.3	9.6	3.7	7.0	5.2
Mixed - White & Black african	1.3	1.8	4.6	4.1	.9	4.4	2.3
Mixed - White & Asian	0.4	0.8	0.6	0.0	0.3	0.0	0.6
Mixed - other	0.9	2.0	6.4	2.7	1.8	1.8	2.7
Chinese	0.4	0.1	0.3	0.0	0.3	0.0	0.2
other	0.4	4.6	1.8	1.4	0.3	2.6	2.5
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0
BASE: number of respondents in each category	281	762	312	73	335	95	1858

Type of application year on year comparison 2004-2008

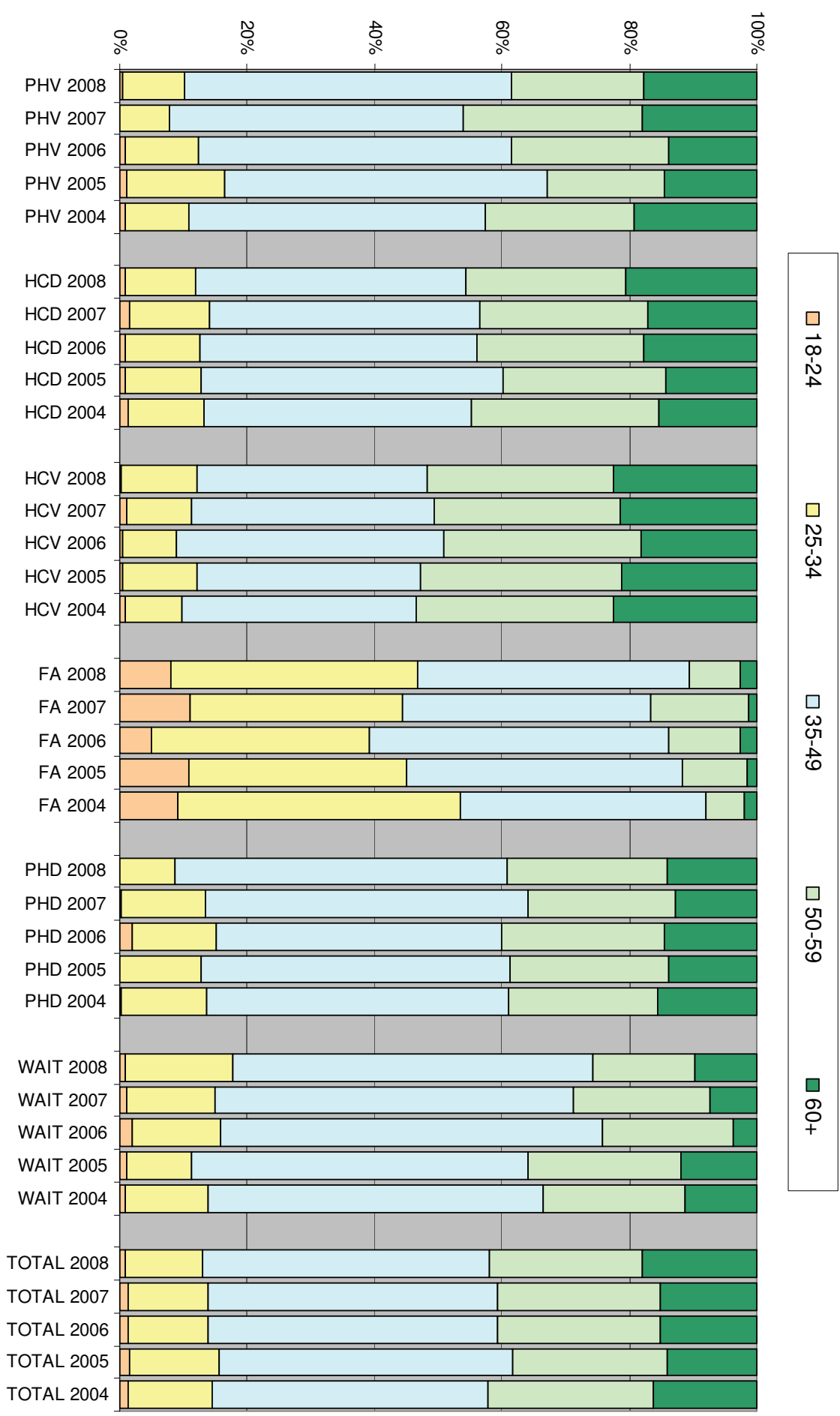
Type of application	2008	2007	2006	2005	2004
Private hire vehicles	12.7	15.2	12.3	6.6	13.8
Hackney carriage drivers	40.8	41.0	43.0	37.0	40.0
Hackney carriage vehicles	18.2	16.7	15.9	17.0	16.8
First applications	4.2	3.9	4.5	8.6	5.3
Private hire drivers	17.8	17.9	17.9	18.4	17.9
Waiting list	6.3	5.3	6.4	12.4	6.2
Total	100.0	100%	100%	100%	100%
Base	1842	1894	1746	1521	1919



Taxi ethnicity monitoring comparison 2004 - 2008 Ethnicity by Licence (Excluding White British)



Taxi ethnicity monitoring comparison 2004-2008 Age Ranges by licence



LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 15

Brighton & Hove City Council

Subject: Amendment to Hackney Carriage Fare Formula
Date of Meeting: 27 November 2008
Report of: *Director of Environment*
Contact Officer: Name: *Martin Seymour* Tel: 29-6659
E-mail: hco@brighton-hove.gov.uk
Wards Affected: All

FOR GENERAL RELEASE/ EXEMPTIONS

1. SUMMARY AND POLICY CONTEXT:

- 1.1 To seek committee advice regarding a change in the formula used to calculate the maximum normal daytime hackney carriage fare, the vehicle licence fee.

2. RECOMMENDATIONS:

- 2.1 That the Director of Environment may include the vehicle licence fee in the standing charges used in the formula to calculate the maximum normal daytime fare for hackney carriages, the total divided by 18,000 to give the highest figure in pence per mile for normal daytime taxi fares which will be entertained by the council if required following negotiations with the trade on taxi marshalling.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 Powers to set fares for hackney carriages is delegated to the Director of Environment after advice from members.
- 3.2 There are two elements to the fares:
- (i) the normal daytime fare applicable between 6am and 10pm Monday to Saturday which is calculated by a formula last amended in 2004 and
 - (ii) extra charges, which include a vehicle-hiring fee, fouling charge and for journeys outside those times, on Sundays and at Bank and Public Holidays, these being set outside the formula.

- 3.3 The formula is a mixture of independent figures for average earnings, for vehicle standing charges and running costs and for vehicle insurance premiums. It calculates the maximum normal daytime fare, which will be entertained by the council in any application for a fare review.
- 3.4 This report proposes to allow a change in the formula relating only to vehicle standing charges by adding the hackney carriage licence fee if required. The rest of the formula remains the same.
- 3.5 The figures the remaining standing charges and running costs are produced annually by the AA. The formula uses figures for both petrol cars and diesel cars in the new vehicle cost range of £13K to £20K.
- 3.6 Officers and the trade are currently looking into the funding of taxi marshalls on the main city centre ranks during peak weekend hours commencing in 2009/10. One proposal is that the cost of funding marshalls shall be added to the hackney carriage vehicle licence fee. The use of the formula to include the vehicle licensing fee would ensure that proprietors of vehicles are not burdened with the substantial cost of providing marshalls but the trades customers ultimately pay for a safer more efficient rank clearance.
- 3.5 This proposed change to the formula will be effective at any future fare review if required.

4. CONSULTATION

- 4.1 This matter has been discussed at the council's hackney carriage and private hire consultation forum where all members of that forum are free to express their opinions. Forum members are supportive of marshalling of taxi ranks but are divided as to how funding should be provided.

5. FINANCIAL & OTHER IMPLICATIONS:

- 5.1 Revenue: There is no financial impact to the revenue budget at this stage, by agreeing to the revision of the calculation of the formula. However, if it is subsequently agreed at the forum to adopt this new hackney carriage vehicle licence fee, this will mean that the revenue to the Council is increased. The net effect on the budget should be the same, however, as this increased revenue will then cover the cost of providing the marshalls.

Finance Officer Consulted: Karen Brookshaw

Date: 04/11/08

Legal Implications:

- 5.2 The power to fix fares for hackney carriages is under Section 65 of the Local Government (Miscellaneous Provisions) Act 1976

Equalities Implications:

- 5.3 In order to improve services to disabled groups all new drivers are required to attend equalities and disabilities awareness and customer care training. Drivers are also tested to ensure that they meet a basic standard of literacy.

Sustainability Implications:

- 5.4 The role of the taxi trade is included in the Local Transport Plan, which identifies it as a key element in providing sustainable transport choices. It creates important links in the transport network to other forms of sustainable transport providing a seamless connection. It will contribute to three of the government's four shared transport priorities – reducing congestion, improving air quality and accessibility. Use of taxis for school transport, licensed vehicles using bus lanes, locating ranks at railway stations and the city coach station, approved use of liquid petroleum gas all contribute to reducing congestion and moving passengers quickly.

Crime & Disorder Implications:

- 5.5 Sufficient late night transport to reduce public place violent crime is recognised in the community safety, crime reduction and drugs strategy. The presence of CCTV can be an important means of deterring and detecting crime.

Risk and Opportunity Management Implications:

- 5.6 The transport industry should be safe, profitable and be a positive experience for residents and visitors.

Corporate / Citywide Implications:

- 5.7 Tourism needs to provide a warm welcome to visitors and the tourism strategy depends upon effective partnership with transport operators particularly to achieve safe late night dispersal for the night time economy.

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 16

Brighton & Hove City Council

Subject: *Unmet Demand Survey*
Date of Meeting: *27 November 2008*
Report of: *Director of Environment*
Contact Officer: Name: *Martin Seymour* Tel: **29-6659**
E-mail: *hco@brighton-hove.gov.uk*
Wards Affected: All

FOR GENERAL RELEASE/ EXEMPTIONS

1. SUMMARY AND POLICY CONTEXT:

- 1.1 That the Committee be aware that a Hackney Carriage “Unmet Demand Survey” will be undertaken during 2009 to determine any unmet demand for Hackney Carriages.

2. RECOMMENDATIONS:

- 2.1 That members confirm their support for a restricted numbers policy for hackney carriage vehicles with managed growth of five additional plates issued annually. This policy to be reviewed following the consultants report.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The council licences hackney carriage vehicles and private hire vehicles. Hackney Carriages (taxis) can ply for hire in the streets and at taxi ranks whereas Private Hire vehicles can only accept work resulting from telephone bookings made by customers to a private hire operator. There is no limit on the number of private hire vehicle licences.
- 3.2 The Transport Act, 1985 s16 allows the council to limit the number providing it is satisfied that there is no significant demand for hackney carriages which is unmet. The only acceptable method of determining demand is by an independent survey. (Estimated to be in the region of £18K dependant on scope of the survey and result of a tendering process).
- 3.3 A local licensing authority in the event of a challenge to a decision to refuse a licence would have to establish to the courts that it had, reasonably, been satisfied that there was no significant unmet demand. An interval of three

years is commonly regarded as the maximum reasonable period between surveys.

- 3.4 Most local licensing authorities do not impose quantity restrictions and the Department for Transport regards that as best practice. Where restrictions are imposed, the Department for Transport urges that the matter should be regularly reconsidered and further urges that the issue to be addressed first is whether the restrictions should continue at all.
- 3.5 In most cases where quantity restrictions are imposed, vehicle licence plates command a premium, often of tens of thousands of pounds. This indicates that there are people who want to enter the taxi market and provide a service to the public, but who are being prevented from doing so by the quantity restrictions.
- 3.6 An unmet demand survey was carried out in 2006 following which committee agreed to continue with a policy of managed growth of an additional 5 plates issued on an annual basis in May. This policy was again confirmed by committee in November 2006 following a petition to the council regarding the lack of availability of wheelchair accessible vehicles. However, an additional 20 plates were issued at that time to satisfy the demand for wheelchair accessible vehicles with a condition that these 20 vehicles must be attached to a radio circuit.
- 3.7 Currently in Brighton & Hove there are 523 Hackney Carriage vehicles licensed of which 124 wheelchair accessible and 455 Private Hire Vehicles of which only 28 are wheelchair accessible. There are 1153 Hackney Carriage Licensed Drivers and 567 Private Hire Licensed Drivers.
- 3.8 The Department for Transport has published guidelines for best practice with regard to quantity restrictions and the conduct of surveys. The Current advice from The Department of Transport is given in Appendix 1.

4. CONSULTATION

- 4.1 This matter has been discussed at the council's hackney carriage and private hire consultation forum where all members of that forum are free to express their opinions. Forum members are supportive of an unmet demand survey.

5. FINANCIAL & OTHER IMPLICATIONS:

- 5.1 Revenue: The full cost of the unmet demand survey will be covered within existing revenue budgets.

Capital: There are no capital implications.

Finance Officer Consulted: Karen Brookshaw

Date: 04/11/2008

Legal Implications:

- 5.2 These are addressed in the body of the report.

Lawyer Consulted: Liz Woodley

Date:12/11/2008

Equalities Implications:

- 5.3 In order to improve services to disabled groups all new drivers are required to attend equalities and disabilities awareness and customer care training. Drivers are also tested to ensure that they meet a basic standard of literacy.

Sustainability Implications:

- 5.4 The role of the taxi trade is included in the Local Transport Plan, which identifies it as a key element in providing sustainable transport choices. It creates important links in the transport network to other forms of sustainable transport providing a seamless connection. It will contribute to three of the government's four shared transport priorities – reducing congestion, improving air quality and accessibility. Use of taxis for school transport, licensed vehicles using bus lanes, locating ranks at railway stations and the city coach station, approved use of liquid petroleum gas all contribute to reducing congestion and moving passengers quickly.

Crime & Disorder Implications:

- 5.5 Sufficient late night transport to reduce public place violent crime is recognised in the community safety, crime reduction and drugs strategy. The presence of CCTV can be an important means of deterring and detecting crime.

Risk and Opportunity Management Implications:

- 5.6 The transport industry should be safe, profitable and be a positive experience for residents and visitors.

Corporate / Citywide Implications:

- 5.7 Tourism needs to provide a warm welcome to visitors and the tourism strategy depends upon effective partnership with transport operators particularly to achieve safe late night dispersal for the night time economy.

SUPPORTING DOCUMENTATION

Appendices:

1. Taxi and Private Hire Vehicle Licensing: Best Practice Guidance 2005 (Department for Transport) – extract.

Taxi and Private Hire Vehicle Licensing: Best Practice Guidance 2005
(Department for Transport) Extract

The present legal provision on quantity restrictions for taxis outside London is set out in section 16 of the Transport Act 1985. This provides that the grant of a taxi licence may be refused, for the purpose of limiting the number of licensed taxis 'if, but only if, the [local licensing authority] is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet'.

Local licensing authorities will be aware that, in the event of a challenge to a decision to refuse a licence, the local authority concerned would have to establish that it had, reasonably, been satisfied that there was no significant unmet demand.

Most local licensing authorities do not impose quantity restrictions; the Department regards that as best practice.

Where restrictions are imposed, the Department would urge that the matter should be regularly reconsidered. The Department further urges that the issue to be addressed first in each reconsideration is whether the restrictions should continue at all. It is suggested that the matter should be approached in terms of the interests of the travelling public - that is to say, the people who use taxi services. What benefits or disadvantages arise for them as a result of the continuation of controls; and what benefits or disadvantages would result for the public if the controls were removed? Is there evidence that removal of the controls would result in deterioration in the amount or quality of taxi service provision?

In most cases where quantity restrictions are imposed, vehicle licence plates command a premium, often of tens of thousands of pounds. This indicates that there are people who want to enter the taxi market and provide a service to the public, but who are being prevented from doing so by the quantity restrictions. This seems very hard to justify.

If a local authority does nonetheless take the view that a quantity restriction can be justified in principle, there remains the question of the level at which it should be set, bearing in mind the need to demonstrate that there is no significant unmet demand. This issue is usually addressed by means of a survey; it will be necessary for the local licensing authority to carry out a survey sufficiently frequently to be able to respond to any challenge to the satisfaction of a court. An interval of three years is commonly regarded as the maximum reasonable period between surveys.

As to the conduct of the survey, the Department's letter of 16 June 2004 set out a range of considerations. But key points are:

- **the length of time that would-be customers have to wait at ranks.** However, this alone is an inadequate indicator of demand; also taken into account should be...
- **waiting times for street hailings and for telephone bookings.** But waiting times at ranks or elsewhere do not in themselves satisfactorily resolve the question of unmet demand. It is also desirable to address...
- **latent demand,** for example people who have responded to long waiting times by not even trying to travel by taxi. This can be assessed by surveys of people who do not use taxis, perhaps using stated preference survey techniques.
- **peaked demand.** It is sometimes argued that delays associated only with peaks in demand (such as morning and evening rush hours, or pub closing times) are not 'significant' for the purpose of the Transport Act 1985. The Department does not share that view. Since the peaks in demand are by definition the most popular times for consumers to use taxis, it can be strongly argued that unmet demand at these times should not be ignored. Local authorities might wish to consider when the peaks occur and who is being disadvantaged through restrictions on provision of taxi services.
- **consultation.** As well as statistical surveys, assessment of quantity restrictions should include consultation with all those concerned, including user groups (which should include groups representing people with disabilities, and people such as students or women), the police, hoteliers, operators of pubs and clubs and visitor attractions, and providers of other transport modes (such as train operators, who want taxis available to take passengers to and from stations);
- **publication.** All the evidence gathered in a survey should be published, together with an explanation of what conclusions have been drawn from it and why. If quantity restrictions are to be continued, their benefits to consumers and the reason for the particular level at which the number is set should be set out.
- **financing of surveys.** It is not good practice for surveys to be paid for by the local taxi trade (except through general revenues from licence fees). To do so can call in question the impartiality and objectivity of the survey process.

Quite apart from the requirement of the 1985 Act, the Department's letter of 16 June 2004 asked all local licensing authorities that operate quantity restrictions to review their policy and justify it publicly by 31 March 2005 and at least every three years thereafter. The Department also expects the justification for any policy of quantity restrictions to be included in the five-yearly Local Transport Plan process.

LICENSING COMMITTEE (Non Licensing Act 2003 Functions)

Agenda Item 17

Brighton & Hove City Council

Subject: Street trading
Date of Meeting: 27 November 2008
Report of: Assistant Director Public Safety
Contact Officer: Name: Jean Cranford Tel: 292550
E-mail: jean.cranford@brighton-hove.gov.uk
Wards Affected: All

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 Following the creation of the Unitary Authority in 1997, Brighton & Hove City Council introduced a street trading policy on 2 April 1998. The policy was an amalgamation of policies from Brighton Borough Council and Hove Borough Council adopted under the provisions of the Local Government (Miscellaneous Provisions) Act 1982 and sought to integrate the two existing policies into a workable, enforceable document.
- 1.2 Brighton & Hove has streets in which street trading is prohibited, it has areas where consent is granted for street trading (e.g. East Street) and there are 5 pitches for street trading in the city centre. The Seafront area including Grand Junction Road and Kings Road is designated a consent street but is outside the trading policy established by the Council and control of that area is the responsibility of the Seafront Office.
- 1.3 The amalgamation of the two Borough's policies has resulted in some lack of clarity in respect of status of streets and conditions some of which are unenforceable, imprecise or inappropriate.
- 1.4 A consultation on the street market in Upper Gardener Street was undertaken during 2006 and 2007 but officers would like to undertake consultation to review the entire cities street trading designations and policy and thereafter report back to committee with a view to re-setting council policy.

2. RECOMMENDATIONS:

- 2.1 (1) To ask the committee for permission to go out to consultation on street trading in Brighton & Hove.

(2) To seek steerage from licensing councillors of preferred outcomes.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

Current Process

- 3.1 There are currently 5 designated pitches for street trading in the city centre (Castle Street, Clarence Square, Dean Street, Crown Street and Marlborough Street). All pitches are let and there is a waiting list for traders who would like to take over a pitch if one becomes vacant.
- 3.2 A street market is held each Saturday in Upper Gardener Street between the hours of 07.00 and 17.00.
- 3.3 There are designated areas (zone B) where traders can request a permit for street trading. These are the residential areas outside the city centre.
- 3.4 Permits for 3.1 – 3.3 above are issued by officers in Environmental Health and Licensing. Any appeals against officers decisions are heard by the Licensing Committee (Non-Licensing Act 2003).
- 3.5 There are areas throughout the city in which street trading is prohibited. These areas are generally main thoroughfares or areas in the city centre.

Commentary on street trading policy

- 3.6 Our current policy, set by the relevant sub-committees on 2 April 1998 is appended (Appendix 1).
- 3.7 Street trading is selling articles on the street, including exposing or offering articles for sale. It does not include provision of services, like henna tattooing, hair braiding, tarot reading etc.

The following activities are not subject to street trading controls:

- Pedlars, with a pedlars certificate issued by the Police under the Pedlars Act 1871. These are itinerant traders.
- Markets covered by enactment or order (ancient – none in Brighton & Hove)
- Trunk road picnic areas (none in Brighton & Hove)
- News vending
- Trading at petrol filling station
- Trading on the street adjoining a shop as part of the business of the shop
- Selling things on a round like milk doorstep delivery
- Objects on a highway licensed under highways legislation, like tables and chairs or A boards

- Recreation or refreshment facilities licensed under highways legislation
- Charitable street collections which are subject to separate permissions

Controls only apply to the street or other public places.

3.8 Issues in recent years include:

- The current street trading consents conditions restricting goods that may be sold and requiring the presence of the consent holder at the stall.
- One secondary school's objection to a regular trader.
- The approach to be taken to streets around the proposed community stadium.
- Uncertainty over the status of some streets (prohibited, consent or undesignated).
- The numerous exemptions for provision of goods, pedlars, ancillary activities to shops.
- Recent reports to Committee about Upper Gardener Street market.
- New Road which is currently designated as a prohibited street.
- Popular markets like farmers markets and French markets.
- Traditional activities like sale of chestnuts at Christmas and street artists in the summer.
- Setting fees at a legally justified level.
- Joint consents (held in more than one name).

3.9 Historically, parks have remained undesignated to allow Leisure officers flexibility permitting outdoor events. The Seafront has been a consent street managed on a day to day basis by Seafront officers. Economic development members and officers are considering corporate market policies.

Recommended Process

3.10 Officers request that the committee approve officers request to undertake a consultation on street trading in Brighton & Hove with a view to the results from that consultation informing a revised Street Trading Policy and a separate designation of streets.

3.11 A full and measured consultation will involve residents (including the citizens panel) and businesses (including individual street traders) in Brighton & Hove, Police and Highway Authority, Economic Development and Regeneration regarding the corporate markets policy, Events Office, Seafront Office (including Seafront Trader Association), Trading Standards, Children's Trust, City Clean, Legal, Finance, Ward Councillors, City Centre and Hove Business Fora, Trader Associations including North Laines Traders Association, Upper Gardener Street Traders Association, and Community Associations including the North Laines Community Association.

4. CONSULTATION

4.1 None

5. FINANCIAL & OTHER IMPLICATIONS:

5.1 Financial Implications:

Revenue: Street Trading fees are set at a level that officers reasonably believe will cover the costs of administrating the service. Licensing functions should neither be subsidised by the general fund nor raise revenue. The costs of undertaking the aforementioned consultation will be met within existing Licensing budgets.

Capital: There are no capital implications.

Finance Officer Consulted: Karen Brookshaw

Date: 17/09/08

5.2 Legal Implications:

Section 3 of the Local Government (Miscellaneous Provisions) Act 1982 enables a district council in England and Wales to adopt a code for the regulation and control of street trading within its area. Once Sch 4 to the Act is adopted, a district council may choose to designate any street within its area as a prohibited, licence, or consent street.

A licence street designation is appropriate for the more formalised market type of trading in a street where the strict control of a limited amount of space is required. Designation of a street as a consent street can cover the more itinerant and infrequent type of trading and provides a district council with a more flexible system of control.

Schedule 4 to the Act contains provisions which distinguish between the issuing of a licence and the issuing of a consent, and the main differences between the two types of street designation are as follows:

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 the statutory grounds.	No statutory limitation on a district council's power to revoke or refuse to renew a street trading consent.
3) Before a district council may vary a principal term of a street trading licence, or before it may refuse to grant or renew or revoke a street trading licence, it	No notice requirements apply to a street trading consent.

<p>must first invite the applicant/licence-holder to make representations and then afford that person a reasonable opportunity to make those representations.</p>	
<p>4) Statutory grounds of appeal against the refusal, revocation or variation of a principal term of a street trading licence are contained in the Schedule.</p>	<p>There is no right of appeal against the refusal to grant or renew a consent or against the revocation or variation of a consent.</p>
<p>5) A licence holder may be prosecuted for a breach of the “principal terms” which relate to the street in which, the days and times upon which, and the articles in which the holder trades.</p>	<p>A street trading consent holder may only be prosecuted for a breach of a condition where he trades from a stationary van, cart, barrow, vehicle or from a portable stall in a place or at a time not included in the consent, or for breach of a condition relating to the positions and times in which he may trade but not for a breach of a condition relating to the type of article to be sold.</p>
<p>6) A district may recover from a licence-holder such reasonable charges as they may determine for the collection of refuse and the cleansing of streets etc.</p>	<p>A district council may not charge the holder of a street trading consent for the collection of refuse and cleansing of streets etc.</p>
<p>7) Where a licence is surrendered or revoked, the council has a discretion to remit or refund any fee paid for it.</p>	<p>Where a consent is surrendered or revoked, a council is under a duty to remit or refund the whole or part of any fee paid for the consent.</p>
<p>8) The consent of the highway authority is necessary for the designation of a street as a licence street.</p>	<p>Highway authority consent is not required before the designation of a street as a consent street.</p>

Certain types of trading are excluded from the definition of street trading and these traders are not required to obtain a licence or consent to trade on a licence or a consent street. Similarly, a trader falling within the exclusions may trade in a street designated as a prohibited street.

Lawyer Consulted: Rebecca Sidell

Date: 24/10/08

Equalities Implications:

- 5.3 Diversity is valued and strong, safe communities are vital to future prosperity.

Sustainability Implications:

- 5.4 Some street trading supports recycling of goods. Farmers markets may reduce "food miles"

Crime & Disorder Implications:

- 5.5 Transparent, proportional street trading controls minimise danger of obstruction and nuisance. Street trading can be a source of stolen or counterfeit goods.

Risk and Opportunity Management Implications:

- 5.6 Street trading is a crucial business and employment opportunity and unnecessary regulation might lead to legal challenge.

Corporate / Citywide Implications:

- 5.7 Street trading represents some traditional, historic heritage of the city. Many characters and activities are interwoven into the city's history.

SUPPORTING DOCUMENTATION

Appendices:

1. Street Trading Harmonisation – Report to Consumer Services and Highways Management Sub Committee (Decommissioned).
2. Street Trading – Report to Licensing and Health Committee (Decommissioned).

Brighton & Hove City Council

AGENDA ITEM:

COMMITTEE: Consumer Services and Highways Management Sub.

Date: 2nd April 1998

Report of: Director of Environmental Services

Subject: Street Trading Harmonisation

Ward(s) affected: All

1. Purpose of the report

1.1 To inform members of the present arrangements in respect of street trading, to detail harmonisation options and to make recommendations.

2. RECOMMENDATIONS

It is recommended that members:-

2.1 Adopt a street trading policy based upon the option detailed in paragraph 3.10(C) [the Brighton model] of this report.

2.2 Delegate power to the Director of Environmental Services to advertise and serve the necessary notices to designate or redesignate streets as necessary to:

- (1) conform with the policy adopted in paragraph 2.1 above,
- (2) designate the streets listed in Appendix B to this report as prohibited streets, **after consulting Ward Members.**
- (3) redesignate the Kingsway to its western junction with Roman Road and part of the Kings Esplanade from prohibited street to

consent street, (DARTS to provide assurance that Kingsway used appropriately).

- (4) redesignate Fonthill Road, Newtown Road, Goldstone Lane and part of Goldstone Crescent from prohibited street to consent street and require the Director of Environmental Services to report back with the result of consultations.
- 2.3 Require that the Director of Environmental Services periodically review the static trading areas and to report upon underused areas.
- 2.4 Require that new applications for street trading consents be accompanied by a fee of £100 such sum being credited to the consent fee should the application be granted and being returned if the application is refused.
- 2.5 Delegate power to the Director of Environmental Services to determine new, renewal and variation applications for street trading consents and to revoke consents subject to any persons aggrieved by the delegated power being entitled to an appeal to the Committee save where revocation has occurred as the result of non-payment of fees.
- 2.6 Apply the standard conditions adopted by the former Brighton Borough Council to street trading consents to the new authority excepting that condition A be substituted by the condition detailed in paragraph 3.11(h) of this report.

3. INFORMATION

Historical

- 3.1 Both Brighton and Hove Councils adopted the provisions of the Local Government (Miscellaneous Provisions) Act 1982 which enabled them to control street trading within their area by designating streets and other areas as a prohibited or a consent street.
- 3.2 Within Brighton the Council sought to control trading by creating a central zone within which all streets were prohibited streets with the exception of a small number of streets which were designated consent streets to permit trading from a static pitch only or for specific purposes such as street artists, chestnut sellers and the Dieppe Market. The seafront area including Grand Junction Road and Kings Road is designated a consent street but is outside the trading policy established by the Council and control of that area is the responsibility of the Director of Arts, Recreation and Tourism Services.

- 3.3 The remainder of the Borough forms an outer zone within which streets and other places to which the public have access are designated consent streets for mobile trading only. Major traffic/bus routes and the Undercliff area have been designated prohibited streets in this outer zone. Parks and other open spaces are undesignated to permit their flexible use. Appendix A is a map outlining the zones referred to.
- 3.4 In 1994/5 Brighton Council considered and approved a consolidating report reviewing its street trading policy, enforcement of trading and conditions attached to consents. The fees for consents are reviewed annually. Since that report various streets have been redesignated as prohibited streets in the central zone as some static sites had remained vacant for sometime.
- 3.5 Within hove a different approach was adopted. Major traffic routes including the Kingsway and the majority of the streets running south and north off of Western Road / Church Road / New Church Road together with a small area around the Goldstone Ground and a small group of streets between the Kingsway and Kings Esplanade are designated prohibited streets.
- Blatchington Road and Station Road / Boundary Road are designated consent streets as are various areas to the south of the Kingsway. As with Brighton this latter area is the responsibility of the Director of Arts, Recreation and Tourism Services. The remainder of the streets in the Borough are not designated. No policy concerning trading conditions has been formulated and no fees are charged for consents.

Present Trading Position

- 3.6 With Brighton central zone there remain 11 static trading sites of which 5 are let. It is apparent that there is a small core of long term traders who wish to retain their sites have been taken up by traders but usually their business does not prove to be viable and the contents are surrendered.

Occasional activities such as street artists, chestnut sellers and the Dieppe Market generally continue to be in demand.

- 3.7 The Upper Gardner Street market also falls within the ambit of street trading. The market has 92 pitches but only 15 are let. Annual consents are issued for pitches at this market payable quarterly. Consideration has been given to proposing a weekly consent but his would require additional enforcement and administrative costs which would have to be borne by the consent holders. Such a proposal would not be supported by the Market Traders Association or local community groups and it is not recommended that the present format be changed.

- 3.8 Within the outer zone since the formation of the new Authority only 2 consents have been issued this year. A major mobile vendor has not renewed his consents for the outer zone presumably choosing to trade in Hove area where no fee is payable.
- 3.9 Within Hove there are currently 3 traders in operation on the consent streets. No information is available on the number of mobile traders as they do not require the permission of the council.

Harmonisation and Future Policy

- 3.10 In considering a harmonisation of street trading policy for the new Authority a number of major options present themselves:-
- (A) The most contentious option would be to remove all designations and allow unrestricted street trading. Whilst for the majority of streets such a move would not have an effect it is probable that the major shopping streets would be subjected to greater street trading. Being unfettered this could lead to disputes and complaints both from the public and retailers in the affected. It is not recommended that this option be adopted.
 - (B) The antithesis of the above option would be to designate all streets and other areas as prohibited streets and effectively any traders found on the streets would be guilty of an offence. As indicated earlier there is a relatively small core of established static traders in Brighton & Hove. Adoption of such an option would obviously have a major impact on these traders and would meet with opposition. Enforcement of such a policy could prove to be time consuming and have a financial implication. Again it is not recommended that this option be adopted.
 - (C) Another option would be strictly control all street trading by extending the "Brighton model" to Hove and designate all streets as consent or prohibited streets, issue consents as appropriate subject to standard street trading conditions and impose fees.

This would eliminate the present anomaly whereby a trader needs a consent to trade in outer zone of Brighton

but when in Hove no consent is necessary, there is no regulation and no fee is payable. Adoption of this option would enable the Council to maintain control of street trading throughout its area and it is recommended that this option be adopted.

- (D) A further option would be to apply the “Hove model” to Brighton and retain the present controls on the central zone, impose conditions and fees on consent holders in both Brighton and Hove as appropriate but to remove the designation of consent streets to all such streets in the outer zone of Brighton. This would allow trading whether static or mobile in the majority of the streets in the new Authority. The police have expressed reservations with such a policy which may lead to dispute between traders although there is no record of significant problems in Hove as a result of such unfettered trading. This option is less bureaucratic and there is no significant financial implications in adopting this model as street trading fees are determined on a self-financing basis to take account of administration and enforcement.

3.11 If an option entailing continued controlled trading (paragraph 3.10 C or D) is considered appropriate several further matters need to be address:-

- (a) At present the seafront area in Brighton (Grand Junction Road, Kings Road, Lower Esplanade including Fishmarket Hard, Madeira Drive and the Beach and foreshore above low water mark) is designated as a consent street. This area and its day to day administration is the responsibility of the Director of Arts, Recreation and Tourism Services and is excluded from the general street trading policy.

Within Hove some of the seafront area (Kingsway/Wellington Road, Kings Esplanade (part), St Aubyns South, Sussex Road and Medina Villas) is designated prohibited street whilst other areas south of the Kingsway such as the Beach, promenades and esplanades are designated consent street and are the responsibility of the Director or Arts, Recreation and Tourism Services.

For compatibility it would seem appropriate to redesignate the Kingsway to its western junction with Roman Road and part and part of the Kings Esplanade to consent street. This would allow a more flexible use of the entire seafront. As previously it is

recommended that this area would be outside the general street trading policy and the Director or Arts Recreation and Tourism Services would be responsible for its administration.

- (b) As indicated earlier not all streets in Hove between the Kingsway, New Church Road / Church Road / Western Road and Portland Road have been designated as prohibited streets. For clarity and to simplify administration it is recommended that all streets within this area be designated as prohibited streets. Appendix B lists the streets which would need to be designated to achieve this.
- (c) With the demise of Goldstone Ground there is no longer a case to support the designation of Fonthill Road, Newtown Road, Goldstone Land and part of Goldstone Crescent as prohibited streets or dedesignated completely dependant on the option adopted.
- (d) It has been a matter of debate on occasion as to whether trading on the forecourts of properties and the like constitutes street trading. At present, in Brighton, designation for the purpose of street trading includes land to which the public commonly has access. Such a definition could include therefore, the Marina or forecourts of premises such as outside Tescos in Station Road. It can be argued that whilst the public may have access they do not have in law the right to that access and such trading should not fall within the ambit of street trading. This view has some merit and it is recommended that where such trading takes place the Council should not seek to impose street trading legislation. A measure of control can still be exercised over this type of trading by the requirements of the Planning and Highways legislation as appropriate.
- (e) When the Brighton Borough Council originally approved the static trading sites within the central area the location of each site was identified on a map and the area was marked on the pavement or roads as appropriate. The practice of marking generally has not been undertaken for sometime as the sites are known and various road alterations have dictated that their positions have in some cases needed to be modified slightly. Upper Gardner Street market is the exception to this as the majority of this road is available for trading and it is essential that the individual pitches are identified. The lack of marking on the other sites does not inhibit enforcement of trading conditions.

Within Hove specific static trading sites have not generally been identified and approved within consent streets. There is little merit in attempting to identify the position of sites at this stage as there is little demand for consents in Hove.

It is recommended that all individual static sites within Brighton be subject to periodic review and where specific sites have been unused or elicit little interest from potential traders reports be submitted with a view to changing their designations to prohibited streets. Within the consent streets in Hove it is recommended that where an application for consent is received, the application and proposed trading position be considered by Committee following consultation with Council officers, retailing organisations and specific retailers likely to be affected by the proposal. The consent streets in Hove should also be subject to periodic review and where little interest has been shown for trading reports should be submitted with a view to changing their designation to prohibited streets.

- (f) At present no fee is required to accompany an application for a new trading consent, the appropriate fee only being levied where the application is successful. In the event that the application is refused, withdrawn or not taken up the cost of processing and determining the application is borne, therefore, by the Council. The fee for consent can be paid on a quarterly basis and for consent in the outer zone in Brighton currently amounts to £225 per quarter. It is recommended that a fee of £100 should be required to accompany applications for new consents. Should the application be successful this sum will be credited as part payment of the first quarterly fee. In the event that the application is refused the fee will be returned to the applicant.

- (g) The Director of Environmental Services is authorised to grant uncontentious new and renewal applications for street trading consents and to revoke them for non-payment of fees. Such actions are reported to Committee. Applications to vary consents, generally on types of goods sold and trading times, are considered by Committee. Increased delegated authority to the Director of Environmental Services would enable applications and enforcement to be dealt with more expeditiously. It is recommended, therefore, that authority be delegated to Director of Environmental Services to determine new, renewal and variation applications for street trading consents and to revoke consents if appropriate. Any applicant or consent holder aggrieved by the decision of the Director of Environmental Services would have the right for an appeal to be

considered by Committee at their next available meeting except where revocation has occurred as the result of non-payment of fees. In determining applications or revocation of consents regard will be had generally to suitability, danger, persistent obstruction, nuisance, breach of conditions, non-payment of fees, proposals outside of policy guidelines and objections from the Police, Fire Authority or as the result of consultation.

- (h) All consents in Brighton are issued subject to standard conditions (Appendix C). The first condition (A) seeks to ensure that no sub-letting of the consent holder occurs, that young persons are not employed and that the consent holder is present should there be any employees. The second condition (B) requires attendance by the consent holder with the exception of subsistence breaks and agreed absence for holidays. A consent can be issued in a maximum of two names. Generally consent holders are physically operating their stalls some with the assistance of employees. In practice to prove any contravention of these two conditions is impossible as it would require continual observation for long periods and any apparent absences may be subsequently justifiable such as through illness or attendance to other unavoidable matters. Whilst the aims of the conditions are laudable enforcement is impractical. It is important, however, to make the consent holders aware that they are expected to be present at their stalls and it is proposed to retain condition (B) despite the difficulties of enforcement. In order to retain control over the consent and to ensure a reasonable prospect of enforcement it is recommended that condition (A) be replaced by the following:-

The consent may not be transferred and the Trader shall not permit any person to exercise the consent in his/her absence unless that person is employed by the consent holder and is at least seventeen years of age. The consent holder shall not employ more than two persons at any one time to exercise the consent in the absence of the holder and any contravention of the standard conditions forming part of the consent by these persons shall be deemed to have been committed by the consent holder.

4. FINANCIAL IMPLICATIONS

- 4.1 Assuming all existing consents are maintained during the current financial year, the four occupied static trading pitches will generate an income of £10040, two mobile consents will generate £1766 and the fifteen consents in Upper Gardner Street market will generate £5760. Total income will remain the same at £17243.

- 4.2 The proposals are broadly financially neutral for the 1998/9 budget. No significant changes in income are expected. Any diminution in street trading will obviously adversely affect the budget.

5. LEGAL IMPLICATIONS

There are no legal implications.

6. ENVIRONMENTAL IMPLICATIONS

There are no environmental implications.

7. EQUALITIES IMPLICATIONS

There are no equalities implications.

8. BACKGROUND PAPERS

Report to Environment and Planning Services Committee meeting 25th January 1994 – consolidating report on street trading excluding Seafront and documentation Report to Environmental & Planning Services Committee meetings 25th January 1994, 21st June 1994, 21st March 1995, 25th September 1996 and 5th February 1997 – redesignation of certain streets.

APPENDIX B

Streets requiring designation of prohibited street within the area formed by the Kingsway, New Church Road / Church Road / Western Road and Portland Road:-

Chelston Avenue, Rothbury Road, Jesmond Road, Mansfield Road, Woodhouse Road, St Helier Avenue, Reynolds Road, Titian Road, Raphael Road, Modena Road, Lawrence Road, Westbourne Street (south of Portland Road), Pembroke Crescent, Wilbury Grove, Brunswick Square, Alice Street, Alice Close, Holland Mews, Hove Place, Medina Place, Namrick Mews, Vallance Gardens, Princes Crescent, Princes Avenue, Westbourne Place, Glendor Road, Tennis Road, Norman Road, Tandridge Road, Marine Avenue, Glastonbury Road, Middleton Avenue, Kenton Road, Erroll Road, St Leonards Avenue, Seaford Road.

AGENDA ITEM No:

COMMITTEE:

LICENSING AND
HEALTH
ENVIRONMENT &
PLANNING SERVICES

DATE:

14TH DECEMBER 1993
25TH JANUARY 1994

DEPARTMENT:

ENVIRONMENTAL
SERVICES

SUBJECT:

STREET TRADING

WARDS AFFECTED:

ALL

1.0 INTRODUCTION

- 1.1 The council has adopted statutory provisions over the years to regulate and control street trading. Following the adoption of these provisions a policy has evolved where essentially street trading is restricted to the seafront area, selected sites in streets within the Town Centre and to mobile trading in the outer part of the Borough. Over a considerable period of time numerous resolutions have been made concerning, amongst other matters, allocation of street trading consents, restriction on trading times, eligibility of applicants, conduct of trade, fees and enforcement. It would be advantageous if the Committee reviewed, amended and consolidated its policies to produce a comprehensive document for the future on this subject.

2.0 PURPOSE OF THIS REPORT

- 2.1 To recommend a comprehensive policy for street trading for the areas of the Borough excluding the seafront.

3.0 RECOMMENDATIONS

- 3.1 The Licensing and Health Sub Committee recommend to the Environment and Planning Services Committee:
- (i) that with effect from the 31st March 1994 all previous resolutions in respect of street trading except where they relate to the designation of streets under the provisions of Section 3 to and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 be revoked.
 - (ii) that with effect from the 1st April 1994 the policy and documentation in Appendices A (policy), B (zoning) and C (approved documents and information) be adopted.

4.0 INFORMATION

- 4.1 The resolutions and practices in respect of street trading have been examined and compiled into a comprehensive logical document. Broadly the appendices for the greater part comprise past resolutions albeit some have been altered for clarity whilst still reflecting the object of the original resolution. Certain areas have been subject to further review or extension notably –

(a) it is proposed before granting applications to seek comments from interested bodies particularly in respect of new applications or variations. It is considered appropriate that the view of the local business community is formally solicited to assist determination on the type of goods already sold in the area.

(b) the Director of Environmental Services is already authorised to grant or renew consents subject to specified limitations. It is proposed that this authority be extended to variations of consents subject to the same limitations. This will enable such applications to be dealt with more speedily and obviate the need to report applications to the Sub Committee.

(c) it is proposed that mobile trading should not occur within 25m of the boundary of a school. The former provision prohibited such trading within the precincts of a school entrance only. With this limitation it has proved possible for a mobile to be positioned on a street and to trade from the vehicle to pupils still within the school grounds. Concern has been expressed by schools at such an activity and conditions may properly be imposed to prevent annoyance or nuisance caused by street trading. The proposal will prohibit this and also prevent grouping of pupils immediately outside a school. The present policy of not limiting the number of mobile traders is continued.

(d) the granting or renewing of a consent is subject to the payment of an appropriate fee. It is existing policy that no consent be issued without payment of this fee. This fee may be paid on a quarterly basis and difficulty has been met on occasion in recovering subsequent instalments. It is

proposed that the Director of Environmental Services be authorised to revoke a consent if the Trader fails to pay within fourteen days following a demand for the outstanding monies. Revocation would enable the site to be offered to applicants on the waiting list. The proposal is designed to secure greater financial control and to recover monies due to the council at the earliest opportunity without incurring substantial administrative costs.

(e) it is a statutory offence to either trade in a prohibited street or trade in a consent street without authorisation or to contravene a consent condition. It is present policy that where an authorised trader infringes a condition a verbal warning is given for a first offence, a written warning is sent for a second offence and for a third infringement the matter is placed before Committee with a view to revoking the consent. During the last six months 37 complaints were received concerning breaches of consent conditions. The police have also expressed concern with the degree of apparent illegal trading in the Town Centre and some joint investigations have been carried out. Enforcement of the legislation in respect of street trading can be difficult due to a number of factors notably the times and places of trading, identification of persons or organisations and the availability of the police to assist. It is proposed that the Director of Environmental Services be authorised to carry out an appropriate investigation and to exercise professional judgement as to whether any breach warrants proceedings being instigated provided appropriate evidence and identification can be obtained or whether the matter can be resolved by written warning to desist or regularise the activity.

(f) similar enforcement would be instigated against consent holders who in addition are required to comply with consent conditions. If a consent holder contravenes for a third time within any twelve month period any condition the Licensing and Health Sub Committee would consider the matter with a view to revocation of the consent regardless of whether legal proceedings were to be instigated or not.

(g) existing policy favours applicants with no other business interests and whose only source of income is from street trading. It is believed the original intention was to provide opportunities for unemployed people but in practice there are enforcement difficulties. It is proposed to favour those whose principal source of income will be from street trading and not to make stipulations regarding other business interests.

(h) consents are not presently granted where similar goods are being sold in the immediate vicinity by an established street trader and regard is had to the types of goods on sale in the vicinity. It is proposed to combine these areas and to give preference to applicants who wish to sell goods difficult to obtain within 100m of a pitch.

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Contact Officer:

Background Papers:

Consultations: Director of Business Services – Legal Services
 Director of Arts and Leisure Services
 East Sussex County Council
 Sussex Police

APPENDIX A

STREET TRADING POLICY

1. Introduction

At its meeting on the 6th March 1986 the Council adopted the provisions of Section 3 and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and determined that for the purposes of street trading the Borough would be divided into two Zones viz. Zones A and B (Appendix B). Within these Zones streets and other places were designated as prohibited or consent streets for street trading. Subsequent to this decision the designation or redesignation of streets was delegated to the Licensing Sub Committee.

2. On 25 January 1994 the Council's Environmental and Planning Services Committee resolved to designate streets in the Borough for the purposes of street trading as set out in the following paragraphs. The Committee also resolved to adopt the policies contained in this document for the purposes of street trading.

3. Zone A - All streets, roads and other places to which the public commonly have access are designated prohibited streets except that -

- (i) Castle Street, Clarence Square, Cranbourne Street, Crown Street, Dean Street, London Road, Marlborough Street, Old Steine, Pool Valley, Queens Road, Upper Gardner Street, Western Road and Western Terrace are designated consent streets for the purposes of street trading from marked sites only.
- (ii) Grand Junction Road, Kings Road, Lower Esplanade including Fishmarket Hard, Madeira Drive and the Beach and Foreshore above low water mark are designated consent for the purposes of street trading. These areas and their day to day administration are the responsibility of the Director of Arts and Leisure Services and are excluded from the subsequent policy within this report.
- (iii) The pedestrianised areas of Duke Street, Market Street and East Street are designated consent streets for the purposes of street artists throughout the year and for the sale of hot chestnuts during the period 1st November to 10th January each year.
- (iv) Bartholomew Square is designated a consent street for the purposes of street artists throughout the year, for the sale of hot chestnuts during the period 1st November to 10th January each year and for use by Dieppe Market for one day during the Brighton Festival each year.

4. Zone B - All streets, roads and other places to which the public commonly have access are designated consent streets for the purposes of street trading from marked sites or mobile stalls/shops or vehicles except that –

(i) All parks, gardens, recreation grounds, pleasure grounds and open spaces under the management and control of the Council.

(ii) The A23 road north of Preston Circus including Beaconsfield Road
The A27 road including Old Shoreham Road west of New England Road, Upper Lewes Road and Lewes Road from its junction with Elm Grove

The A259 road, Marine Drive

Bear Road

Carden Avenue

Coldean Lane

Ditchling Road north of Viaduct Road

Dyke Road north and west of Seven Dials

Elm Grove

Falmer Road

High Street, Rottingdean

Hollingdean Road

Mill Road

Millers Road

Preston Drive

South Road

Stanford Avenue

The Green, Rottingdean

Warren Road

(iii) The Undercliff walk between Black Rock and the Borough Boundary at Saltdean are designated prohibited streets.

5. Street trading is only permitted in –

Zone A – Upper Gardner Street between the hours of 7 am and 1 pm on Saturdays only.

At other marked sites between the hours of 8 am and 6 pm Mondays to Saturdays.

Zone B - between the hours of 8 am and 9 pm Mondays to Sundays –

Provided that any stall, barrow or vehicle may only be erected or removed between the hours specified above.

6. An application for a street trading consent must be submitted to the Director of Environmental Services on the approved application form. Where the application relates to a renewal of consent the appropriate fee must accompany the application.
7. Where an application is placed on a waiting list maintained by the Director of Environmental Services the application may be made in joint names subject to a maximum of two persons. A renewal application previously granted in respect of more than two persons will continue to be granted on that basis.
8. A street trading consent will not exceed a period of twelve months and grant of such consent is subject to it expiring on 31st March following its issue.
9. No consent will be granted (or varied if the effect is to bring it within the following descriptions):
 - (i) where the applicant is under seventeen years of age;
 - (ii) where the applicant is not a fit and proper person to undertake the activity in question;
 - (iii) for a site in respect of any activity (including the use of barrows etc.) which would be likely to cause an obstruction or a hazard to either pedestrians or traffic;
 - (iv) for a site on a footway of a street unless at least 2 metres unobstructed width of footway (allowing for any barrow etc.) would remain open to the public;
 - (v) where an activity would be out of character with the area in question.
 - (vi) where an activity which by nature, location or otherwise would give rise to possible nuisance by reason of noise, litter, smell or other disturbance.
10. In determining applications further –

- (i) preference will be given to established traders at their existing sites unless there are clear reasons not to do so.
 - (ii) preference will be given to applicants living within the Borough of Brighton.
 - (iii) consent will only normally be granted to applicants whose principal source of income will be from street trading.
 - (iv) preference will be given to applicants in respect of proposals to sell goods which are difficult to buy within 100m of the pitch with the exception of Upper Gardner Street Market and comment may be sought from representatives of local businesses and associations.
 - (v) observations may be sought from other officers of the Council and representatives of statutory bodies.
11. Where sites have already been offered to applicants and accepted, unsuccessful applicants will be placed on a waiting list maintained by the Director of Environmental Services for sites and will be considered further in order of receipt of application when they become available. The Director of Environmental Services is authorised to grant, review or vary consents unless the applicant does not satisfy the policy criteria in relation to residency and other sources of income or there are any objections, adverse comment, possible grounds for refusal or a significant change in circumstances. Such applications will be determined by the Licensing and Health Sub Committee.
12. The issue of street trading consents is subject to conditions as appropriate that –
- (i) the consent may not be transferred to any other person and the Trader shall not permit any other person to exercise this consent unless that person is at least seventeen years of age, is employed by the Trader to assist in trading and the Trader is there present in the exercise of the consent.
 - (ii) with the exception of subsistence breaks the consent holder must be present on the stall in the exercise of the consent. Mobile traders may employ authorised assistants on their vehicles. Subject to agreement in writing of the Director of Environmental Services, the consent holder may allow an assistant to operate the consent in his absence for a period not exceeding four weeks within any twelve month period.
 - (iii) the Trader shall not stand or use any stall, barrow or basket or other receptacle or any mobile stall or vehicle in any street except such as are specified in the consent. Such stall, barrow etc. shall be removed

from the specified site at the end of each trading day for storage at a location that is not on the public highway. In addition where consent relates to a mobile stall or shop the Trader shall not trade at any place within 25m of a road junction or ~~within 25m of the boundary of a school or~~ / within 100m of a shop or business premise selling the same or similar commodities, food or other merchandise or any place where parking restrictions apply.

- (iv) the Trader shall not sell, expose or offer for sale any articles other than those described in the consent.
- (v) the Trader shall not sell, expose or offer for sale any articles on days or at times other than those specified in the consent.
- (vi) the Trader shall not at the place or area named in the consent exhibit any advertisement or advertising matter nor distribute and handbills. Provided that if the consent authorises the use of a mobile stall or shop or any vehicle the Trader may display the name of the shop or business, the nature of the trade or business but only in general terms and any notice or information required by Road Traffic legislation.
- (vii) the trader shall at all times whilst trading comply in all respects with all the relevant statutory legislation.
- (ix) the Trader shall at all times whilst trading provide a suitable receptacle for rubbish and litter is not to be placed in municipal litter bins. In upper Gardner Street in lieu of this condition being complied with the Council will offer a refuse collection service upon payment of an appropriate fee.
- (x) the Trader shall operate in a manner which causes no nuisance to the Council or to the general public.
- (xi) the Trader shall at all times whilst trading wear in a prominent position an identity badge provided by the Council.
- (xii) the Trader shall be insured against any claim in respect of third party liability whilst trading under consent unless the Director of Environmental Services has granted dispensation. No consent will be issued until a current policy has been produced to the Director of Environmental Services and the Trader shall produce evidence of such insurance to an authorised officer of the Council within seven days of the officer's request.
- (xiii) Where there is potential ignition source present, including cooking facilities, a 2kg dry powder extinguisher which complies with the

standards set out in BS 5423: 1987 must be provided. Where hot fat cooking facilities are provided a fire blanket should be provided and so positioned as to allow the blanket to be withdrawn easily and quickly.

13. No consent will be issued until the appropriate fee has been received by the Director of Environmental Services.
14. In the event that a permitted site becomes temporarily unavailable for any reason beyond the control of the Council, the Director of Environmental Services may determine, following consultation with the Chair of the Licensing and Health Sub Committee and the Opposition spokesperson that:-
 - (i) the Trader be relocated to another approved site or
 - (ii) the consent be suspended upon giving a reasonable period of notice.
15. The Environment and Planning Services Committee has determined for the financial year commencing 1st April 1993 that the following fees shall be levied in granting or renewing consents:-

Within Zone A

Castle Street and Clarence Square sites:
£2970 p.a. (£742.50p. per quarter)

Western Terrace, Crown Street, Dean Street and Marlborough Street sites:
£2475 p.a. (£618.75p. per quarter)

Cranbourne Street site:
£640 p.a. (£160 per quarter) for Friday and Saturday trading only.
Additional days are chargeable pro-rata.

Upper Gardner Street sites:
£220 p.a. (£55 per quarter)
[For refuse collection service £130 p.a. (£32.50 per quarter)]

All other marked sites:
£2040 p.a. (£510 per quarter)

Newsvendors: £305 p.a. (£76.25 per quarter)

The above fees have been determined in respect of the present size and location of individual pitches.

Street artists:

£20 per month.

Other miscellaneous short term consents:

£10 or £5 depending on duration.

Within Zone B

Mobiles: £810 p.a. (£202.50 per quarter)

16. The above fees will be charged on a pro rata basis in respect of new applications from the date of issue of the consent to the next 31st March.
17. Where fees are paid in instalments the Director of Environmental Services is authorised to revoke the consent if the Trader fails to pay the monies due within fourteen days of a written demand from the Director of Environmental Services.
18. Where consent is surrendered or revoked the Council will refund the fee paid by the Trader on a pro rata basis. In the event that a Trader is unable to operate from an approved site by reason of unavoidable works the Trader will have the option of accepting an alternative vacant approved site if available or relief from the consent fee for the period of displacement.
19. The enforcement of the Council's street trading policy shall be delegated to the Director of Environmental Services who shall take all reasonable and practical steps to ensure that trading does not take place in prohibited streets or consent streets without authorisation and that consent conditions are adhered to. The Enforcing Officer shall determine the appropriate action to take in respect of any specific offence or contravention dependant upon the nature and likely recurrence of same. Any contravention by a consent holder shall be confirmed in writing to the Trader and if summary proceedings are proposed or a third warning within any twelve month period has been given to the Trader, the Director of Environmental Services shall report the matter to the Licensing and Health Sub Committee with a view to revocation of the consent.

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 18

Brighton & Hove City Council

Subject: *Licensing functions reserved to committee*

Date of Meeting: 27th November 2008

Report of: *Director of Strategy and Governance*

Contact Officer: Name: *Rebecca Sidell* Tel: 291511

E-mail: rebecca.sidell@brighton-hove.gov.uk

Wards Affected: All

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report summarises the licensing and registration functions which are reserved to this committee following the implementation of the new constitution.

2. RECOMMENDATIONS:

- 2.1 That this report is noted.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS

- 3.1 Under the new constitution functions carried out by the local authority are broadly characterised as either executive or non executive functions. Thus decisions that are executive decisions are taken at cabinet level or executive member level or delegated to officers as appropriate. Non-executive decisions are taken by full council but may be capable of being delegated down to the relevant licensing committee or the governance committee or to officers.
- 3.2 What constitutes an executive or non-executive function is prescribed by the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) Regulations 2000 as amended (henceforth the 'Regulations'). Schedule 1 to these Regulations lists all the functions and their relevant statutory provisions that are non-executive functions. So by default any function not specifically mentioned in that schedule is an executive function.
- 3.3 The following non-executive functions are carried out by the Non-Licensing Act 2003 Committee and delegated to officers as appropriate:
- The power to licence hackney carriages and private hire vehicles
 - The power to licence drivers of hackney carriages and private hire vehicles

- The power to licence operators of hackney carriages and private hire vehicles
 - The power to licence sex shops and sex cinemas
 - The power to licence performance of hypnotism
 - The power to licence premises for acupuncture, tattooing, ear-piercing and electrolysis byelaws
 - The power to licence market and street trading
 - The power to licence zoos
 - The power to grant permission for provision etc of services, amenities, recreation and refreshment facilities on highway and related powers
- 3.4 This is not an exhaustive list of all the licensing functions listed in the schedule as many of these will be dealt with by officers and are not likely to come to committee. The full list of functions is at Appendix 1.
- 3.5 The Regulations further state (at Regulation 2) that the function of imposing any condition, limitation, or other restriction on an approval, consent, licence, permission or registration granted (and listed in the schedule) and the functions of determining any other terms to which any such approval licence etc is subject is not to be an executive function. Also the function of amending, modifying or varying or revoking is not to be an executive function. Therefore all policy issues relating to these functions for instance the restriction or not of taxi numbers or changes in conditions or policy issues relating to street trading or sex establishments, will be reserved to this committee and to full Council if appropriate.
- 3.6 The only exception to this is the fixing of Hackney Carriage fares which comes under section 65 of the 1976 Local Government (Miscellaneous Provisions) Act and is not specifically mentioned in Schedule 1 to the Regulations and by default is an executive function. Because this committee has developed expertise in this area new arrangements have been proposed to cabinet to retain an open and transparent system. It is thus proposed to continue to use the licensing committee to hear the taxi fare proposals and representations and to make recommendations. To do this the licensing committee will sit as an advisory committee established by the executive and with identical membership to the licensing committee. These new arrangements are detailed in the report of the Director of Strategy and Governance entitled Taxi Tariff setting under the new Constitution to the 20th November cabinet meeting which is attached at Appendix 2.
- 3.7 The provisions relating to tables and chairs on the highway are likely to be dealt with by the sub-committee, the licensing panel, along with any other appeal type decision for which other arrangements have not been made such as appeals against street trading consents or street collection permits.
- 3.8 The main committee may also act in an advisory capacity to full council concerning the making, amendment or revoking of byelaws which are within its terms of reference. The last example of this was when the committee recommended to full council the adoption of byelaws for the regulation of acupuncture, electrolysis, tattooing, cosmetic piercing and semi-permanent skin colouring business.

4. CONSULTATION:

- 4.1 The report has been drafted in consultation with the Head of Law and the Head of Environmental Health and Licensing

5. FINANCIAL & OTHER IMPLICATIONS:

5.1 Financial Implications:

There are no direct financial implications associated with this report

Karen Brookshaw *Date: 12/11/08*

5.2 Legal Implications:

The legal implications are contained in the body of the report

Lawyer Consulted: Rebecca Sidell Date: 14/11/08

5.3 Equalities Implications:

There are no direct equalities implications

5.4 Sustainability Implications:

There are no direct sustainability implications

5.5 Crime & Disorder Implications:

There are no direct crime and disorder implications

5.6 Risk and Opportunity Management Implications:

The functions identified in the report for the licensing committee are consistent with national legislation and good practice

5.7 Corporate / Citywide Implications:

The arrangements will preserve a proper member oversight of the licensing function and are in line with the Council's corporate priority of open and effective city leadership

SUPPORTING DOCUMENTATION

Appendices:

- 1 - Scheme of Licensing Delegation
- 2 - Taxi Tariff setting under the new Constitution – Report to Cabinet
20 November 2008

notice.

[18A Power to issue a temporary stop notice.

19 Power to issue an enforcement notice.

20 Power to apply for an injunction restraining a breach of planning control.

21 Power to determine applications for hazardous substances consent, and related powers.

22 Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.

23 Power to require proper maintenance of land.

24 Power to determine application for listed building consent, and related powers.

25 Power to determine applications for conservation area consent.

26 Duties relating to applications for listed building consent and conservation area consent.

27 Power to serve a building preservation notice, and related powers.

28 Power to issue enforcement notice in relation to demolition of [listed] building in conservation area.

29 Powers to acquire a listed building in need of repair and to serve a repairs notice.

30 Power to apply for an injunction in relation to a listed building.

31 Power to execute urgent works.

B Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule)

1 Power to issue licences authorising the use of land as a caravan site ("site licences").

2 Power to license the use of moveable dwellings and camping sites.

3 Power to license hackney carriages and private hire vehicles.

Section 171E of the Town and Country Planning Act 1990.]

Section 172 of the Town and Country Planning Act 1990.

Section 187B of the Town and Country Planning Act 1990.

Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990.

Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991 (c 34), paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c 25) and paragraph 6(5) of Schedule 14 to that Act.

Section 215(1) of the Town and Country Planning Act 1990.

Sections 16(1) and (2), 17, . . . and 33(1) of [the Planning (Listed Buildings and Conservation Areas) Act 1990 (c 9)].

Section 16(1) of [the Planning (Listed Buildings and Conservation Areas) Act 1990 (c 9)], as applied by section 74(3) of that Act.

Sections 13(1) and 14(1) and (4) of [the Planning (Listed Buildings and Conservation Areas) Act 1990 (c 9)] and regulations 3 to 6 and 13 of [the Planning (Listed Buildings and Conservation Areas) Regulations 1990 (SI 1990/1519)] and [paragraphs 8, 15 and 26 of the Department of the Environment, Transport and the Regions Circular 01/01].

Sections 3(1) and 4(1) of [the Planning (Listed Buildings and Conservation Areas) Act 1990 (c 9)].

Section 38 of [the Planning (Listed Buildings and Conservation Areas) Act 1990 (c 9)].

Sections 47 and 48 of [the Planning (Listed Buildings and Conservation Areas) Act 1990 (c 9)].

Section 44A of [the Planning (Listed Buildings and Conservation Areas) Act 1990 (c 9)].

Section 54 of [the Planning (Listed Buildings and Conservation Areas) Act 1990 (c 9)].]

Section 3(3) of the Caravan Sites and Control of Development Act 1960 (c 62).

Section 269(1) of the Public Health Act 1936 (c 49).

(a) as to hackney carriages, the Town Police Clauses Act 1847 (10 & 11 Vict c 89), as extended by section 171 of the Public Health Act 1875 (38 & 39 Vict c 55), and section 15 of the Transport Act 1985 (c 67); and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous

	Provisions) Act 1976 (c 57); (b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
4 Power to license drivers of hackney carriages and private hire vehicles.	Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
5 Power to license operators of hackney carriages and private hire vehicles.	Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
6 Power to register pool promoters.	Schedule 2 to the Betting, Gaming and Lotteries Act 1963 (c 2) [as saved for certain purposes by article 3(3)(c) of the Gambling Act Order].
7 Power to grant track betting licences.	Schedule 3 to the Betting, Gaming and Lotteries Act 1963 [as saved for certain purposes by article 3(3)(d) and (4) of the Gambling Act Order].
8 Power to license inter-track betting schemes.	Schedules 5ZA to the Betting, Gaming and Lotteries Act 1963 [as saved for certain purposes by article 3(3)(e) of the Gambling Act Order].
9 Power to grant permits in respect of premises with amusement machines.	Schedule 9 to the Gaming Act 1968 (c 65) [as saved for certain purposes by article 4 (2)(l) and (m) of the Gambling Act Order].
10 Power to register societies wishing to promote lotteries.	Schedule 1 to the Lotteries and Amusements Act 1976 (c 32) [as saved for certain purposes by article 5(2)(a) and (3) of the Gambling Act Order].
11 Power to grant permits in respect of premises where amusements with prizes are provided.	Schedule 3 to the Lotteries and Amusements Act 1976 [as saved for certain purposes by article 5(2)(d) and (5) of the Gambling Act Order].
12 Power to issue cinema and cinema club licences.	Section 1 of the Cinema Act 1985 (c 13).
13 Power to issue theatre licences.	Sections 12 to 14 of the Theatres Act 1968 (c 54).
14 Power to issue entertainments licences.	Section 12 of the Children and Young Persons Act 1933 (c 12), section 52 of, and Schedule 12 to, the London Government Act 1963 (c 33), section 79 of the Licensing Act 1964 (c 26), sections 1 to 5 and 7 of, and Parts I and II of the Schedule to, the Private Places of Entertainment (Licensing) Act 1967 (c 19) and Part I of, and Schedules 1 and 2 to, the Local Government (Miscellaneous Provisions) Act 1982 (c 30).
[14A Functions relating to licensing.	Sections 5 to 8 of the Licensing Act 2003 (c 17).]
[14AA Duty to comply with requirement to provide information to Gambling Commission.	Section 29 of the [2005 Act].]
[14AB Functions relating to exchange of information.	Section 30 of the 2005 Act.]
[14AC Functions relating to occasional use notices.	Section 39 of the 2005 Act.]
[14B Power to resolve not to issue a casino premises licence.	Section 166 of the 2005 Act.]
[14C Power to designate officer of a licensing authority as an authorised person for a purpose relating to premises.	Section 304 of the 2005 Act.]
[14CA Power to make order disapplying section	Section 284 of the 2005 Act.]

279 or 282(1) of the 2005 Act in relation to specified premises.	
[14D Power to institute criminal proceedings	Section 346 of the 2005 Act.]
[14E Power to exchange information.	Section 350 of the 2005 Act.]
[14F Functions relating to the determination of fees for premises licences.	The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 (SI 2007/479).]
[14G Functions relating to the registration and regulation of small society lotteries.	Part 5 of Schedule 11 to the 2005 Act.]
[FA Functions relating to smoke-free premises, etc ...]	...]
15 Power to license sex shops and sex cinemas.	The Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3.
16 Power to license performances of hypnotism.	The Hypnotism Act 1952 (c 46).
17 Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis.	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982.
18 Power to license pleasure boats and pleasure vessels.	Section 94 of the Public Health Acts Amendment Act 1907 (c 53).
19 Power to register door staff.	Paragraphs 1(2) and 9 of Schedule 12 to the London Government Act 1963 (c 33) and Part V of the London Local Authorities Act 1995 (c x).
20 Power to license market and street trading.	Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982, Part III of the London Local Authorities Act 1990 (c vii) and section 6 of the London Local Authorities Act 1994 (c xii).
21 Power to license night cafes and take-away food shops.	Section 2 of the Late Night Refreshment Houses Act 1969 (c 53), Part II of the London Local Authorities Act 1990 and section 5 of the London Local Authorities Act 1994.
22 Duty to keep list of persons entitled to sell non-medicinal poisons.	Sections 3(1)(b)(ii), 5, 6 and 11 of the Poisons Act 1972 (c 66).
23 Power to license dealers in game and the killing and selling of game.	Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831 (c 32); sections 2 to 16 of the Game Licensing Act 1860 (c 90), section 4 of the Customs and Inland Revenue Act 1883 (c 10), sections 12(3) and 27 of the Local Government Act 1874 (c 73), and section 213 of the Local Government Act 1972 (c 70).
24 Power of register and license premises for the preparation of food.	Section 19 of the Food Safety Act 1990 (c 16).
25 Power to license scrap yards.	Section 1 of the Scrap Metal Dealers Act 1964 (c 69).
26 Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.	The Safety of Sports Grounds Act 1975 (c 52).
27 Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.	Part III of the Fire Safety and Safety of Places of Sport Act 1987 (c 27).
28 Power to issue fire certificates.	Section 5 of the Fire Precautions Act 1971 (c 40).
29 Power to license premises for the breeding	Section 1 of the Breeding of Dogs Act 1973

of dogs.	(c 60) and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999 (c 11).
30 Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.	Section 1 of the Pet Animals Act 1951 (c 35); section 1 of the Animal Boarding Establishments Act 1963 (c 43); the Riding Establishments Acts 1964 and 1970 (1964 c 70 and 1970 c 70); section 1 of the Breeding of Dogs Act 1973 (c 60), and sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999.
31 Power to register animal trainers and exhibitors.	Section 1 of the Performing Animals (Regulation) Act 1925 (c 38).
32 Power to license zoos.	Section 1 of the Zoo Licensing Act 1981 (c 37).
33 Power to license dangerous wild animals.	Section 1 of the Dangerous Wild Animals Act 1976 (c 38).
34 Power to license knackers' yards.	Section 4 of the Slaughterhouses Act 1974. See also the Animal By-Products Order 1999 (SI 1999/646).
35 Power to license the employment of children.	Part II of the Children and Young Persons Act 1933 (c 33), byelaws made under that Part, and Part II of the Children and Young Persons Act 1963 (c 37).
36 Power to approve premises for the solemnisation of marriages.	Section 46A of the Marriage Act 1949 (c 76) and the Marriages (Approved Premises) Regulations 1995 (S I 1995/510).
37 Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to--	Regulation 6 of the Commons Registration (New Land) Regulations 1969 (SI 1969/1843).
(a) an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 (c 67) or	
(b) an order under section 147 of the Inclosure Act 1845 (c 8 & 9 Vict c 118).	
38 Power to register variation of rights of common.	Regulation 29 of the Commons Registration (General) Regulations 1966 (SI 1966/1471).
39 Power to license persons to collect for charitable and other causes.	Section 5 of the Police, Factories etc (Miscellaneous Provisions) Act 1916 (c 31) and section 2 of the House to House Collections Act 1939 (c 44).
40 Power to grant consent for the operation of a loudspeaker.	Schedule 2 to the Noise and Statutory Nuisance Act 1993 (c 40).
41 Power to grant a street works licence.	Section 50 of the New Roads and Street Works Act 1991 (c 22).
42 Power to license agencies for the supply of nurses.	Section 2 of the Nurses Agencies Act 1957 (c 16).
43 Power to issue licences for the movement of pigs.	Article 12 of the Pigs (Records, Identification and Movement) Order 1995 (SI 1995/11).
44 Power to license the sale of pigs.	Article 13 of the Pigs (Records, Identification and Movement) Order 1995.
45 Power to license collecting centres for the movement of pigs.	Article 14 of the Pigs (Records, Identification and Movement) Order 1995.
46 Power to issue a licence to move cattle from a market.	Article 5(2) of the Cattle Identification Regulations 1998 (SI 1998/871).
[46A Power to grant permission for provision, etc of services, amenities, recreation and refreshment facilities on highway, and related	Sections 115E, 115F and 115K of the Highways Act 1980.

powers.

47A Duty to publish notice in respect of proposal to grant permission under section 115E of the Highways Act 1980.

47 Power to permit deposit of builder's skip on highway.

48 Power to license planting, retention and maintenance of trees etc in part of highway.

49 Power to authorise erection of stiles etc on footpaths or bridleways.

50 Power to license works in relation to buildings etc which obstruct the highway.

51 Power to consent to temporary deposits or excavations in streets.

52 Power to dispense with obligation to erect hoarding or fence.

53 Power to restrict the placing of rails, beams etc over highways.

54 Power to consent to construction of cellars etc under street.

55 Power to consent to the making of openings into cellars etc under streets, and pavement lights and ventilators.

56 Power to sanction use of parts of buildings for storage of celluloid.

57 Power to approve meat product premises.

58 Power to approve premises for the production of minced meat or meat preparations.

59 Power to approve dairy establishments.

60 Power to approve egg product establishments.

61 Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.

62 Power to approve fish products premises.

63 Power to approve dispatch or purification centres.

64 Power to register fishing vessels on board which shrimps or molluscs are cooked.

65 Power to approve factory vessels and fishery product establishments.

66 Power to register auction and wholesale markets.

67 Duty to keep register of food business premises.

68 Power to register food business premises.

[69 Power to issue near beer licence.

Section 115G of the Highways Act 1980.]

Section 139 of the Highways Act 1980 (c 66).

Section 142 of the Highways Act 1980.

Section 147 of the Highways Act 1980.

Section 169 of the Highways Act 1980.

Section 171 of the Highways Act 1980.

Section 172 of the Highways Act 1980.

Section 178 of the Highways Act 1980.

Section 179 of the Highways Act 1980.

Section 180 of the Highways Act 1980.

Section 1 of the Celluloid and Cinematograph Film Act 1922 (c 35).

Regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1994 (SI 1994/3082).

Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995 (SI 1995/3205).

Regulations 6 and 7 of the Dairy Products (Hygiene) Regulations 1995 (SI 1995/1086).

Regulation 5 of the Egg Products Regulations 1993 (SI 1993/1520).

Schedule 1A to the Food Safety (General Food Hygiene) Regulations 1995 (SI 1995/1763).

Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 (SI 1998/994).

Regulation 11 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.

Regulation 21 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.

Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.

Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.

Regulation 5 of the Food Premises (Registration) Regulations 1991 (SI 1991/2828).

Regulation 9 of the Food Premises (Registration) Regulations 1991.

Sections 16 to 19 and 21 of the London

* See SI 2006/2787 re funds relating to regional council
+ m + village greens

70 Power to register premises or stalls for the sale of goods by way of competitive bidding
[71 Power to register motor salvage operators.]

→ * 72.

C Functions relating to health and safety at work

Functions under any of the "relevant statutory provisions" within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.

D Functions relating to elections

1 Duty to appoint an electoral registration officer.

2 Power to assign officers in relation to requisitions of the registration officer.

3 Functions in relation to parishes and parish councils.

4 Power to dissolve small parish councils.

5 Power to make orders for grouping parishes, dissolving groups and separating parishes from groups.

6 Duty to appoint returning officer for local government elections.

7 Duty to provide assistance at European Parliamentary elections.

8 Duty to divide constituency into polling districts.

9 Power to divide electoral divisions into polling districts at local government elections.

10 Powers in respect of holding of elections.

11 Power to pay expenses properly incurred by electoral registration officers.

12 Power to fill vacancies in the event of insufficient nominations.

13 Duty to declare vacancy in office in certain cases.

14 Duty to give public notice of a casual vacancy.

15 Power to make temporary appointments to parish councils.

16 . . .

17 Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.

[18 Duty to consult on change of scheme for elections.

19 Duties relating to publicity.

20 Duties relating to notice to Electoral Commission.

Local Authorities Act 1995 (c x) and, to the extent that it does not have effect by virtue of regulation 2(3), section 25 of that Act.

Section 28 of the Greater London Council (General Powers) Act 1984 (c xxvii).]

Part I of the Vehicles (Crime) Act 2001 (c 3).] *

Part I of the Health and Safety at Work etc Act 1974 (c 37).

Section 8(2) of the Representation of the People Act 1983 (c 2).

Section 52(4) of the Representation of the People Act 1983.

Part II of the Local Government and Rating Act 1997 (c 29) and subordinate legislation under that Part.

Section 10 of the Local Government Act 1972.

Section 11 of the Local Government Act 1972.

Section 35 of the Representation of the People Act 1983.

[Section 6(7) and (8) of the European Parliamentary Elections Act 2002 (c 24).]

[Sections 18A to 18E of, and Schedule A1 to,] of the Representation of the People Act 1983.

Section 31 of the Representation of the People Act 1983.

Section 39(4) of the Representation of the People Act 1983.

Section 54 of the Representation of the People Act 1983.

Section 21 of the Representation of the People Act 1985.

Section 86 of the Local Government Act 1972.

Section 87 of the Local Government Act 1972.

Section 91 of the Local Government Act 1972.

. . .

Section 10 of the Representation of the People Act 2000 (c 2).

Sections 33(2), 38 (2) and 40(2) of the 2007 Act.

Sections 35, 41 and 52 of the 2007 Act.

Sections 36 and 42 of the 2007 Act.

CABINET MEETING	Agenda Item
	Brighton & Hove City Council

Subject:	Taxi Tariff setting under the new Constitution		
Date of Meeting:	20th November 2008		
Report of:	Director Strategy and Governance		
Contact Officer:	Name:	Elizabeth Culbert	Tel: 29-1515
	E-mail:	elizabeth.culbert@brighton-hove.gov.uk	
Key Decision:	No	Forward Plan No.: N/A	
Wards Affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 Under the Committee system decisions in relation to setting taxi fares were taken by the Licensing Committee. Under the new Constitution the power to set taxi fares is an executive function. This means new arrangements are required.
- 1.2 The report proposes a new procedure for setting taxi fares to comply with the law whilst retaining the expertise of the Licensing Committee. The proposals have been considered by the Governance Committee and their recommendations will be reported at the meeting.

2. RECOMMENDATIONS:

- 2.1 An advisory committee to the Executive to be established for the purpose of advising on licensing functions that are the responsibility of the Executive, including setting taxi fares;
- 2.2 The membership of the advisory committee should mirror the Licensing Committee membership;
- 2.3 Power is delegated to the Director of Environment to set taxi fares after considering the recommendations of the advisory committee.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 Under the Local Government (Miscellaneous Provisions) Act 1976 (the Act), the Council has power to fix fares for hackney carriages for journeys within its district and to fix all other charges in connection with the hire of the vehicles.

- 3.2 The Act prescribes the process for setting the fare tariff. This requires the Council to publish a notice in the local paper setting out the proposed variation to fares. Members of the public can make objections within a 14 day period. The proposals are also deposited at local council offices for 14 days. If there are no objections, fares take effect on a specified date. If there are objections that are not withdrawn, the Council (historically, through the Licensing Committee) considers the objections and may modify the table of fares in light of the objections or not.
- 3.3 The Council uses a formula based on local earnings and vehicle expenses to establish the highest rate of basic fares it would consider. It does this to ensure that the process is transparent and to protect consumer interests.
- 3.4 Historically this work has always been undertaken by the Licensing Committee, who have attained expertise. However, this function is now an executive function, meaning the Licensing Committee (a Council Committee) can no longer take the decision as it has in the past.
- 3.5 In order to continue to use the expertise of licensing Members and to retain as open and transparent a system as possible, it is proposed to continue to use the Licensing Committee to hear the proposals and representations and to make recommendations. To do this the Licensing Committee can sit as an advisory committee established by the Executive and with identical membership to the Licensing Committee.
- 3.6 The advisory committee would hear representations and objections in the usual way and then make recommendations. The final decision could then be made either by Cabinet or an Officer with delegated power. It is proposed that the power to set the tariff should be delegated to the Director of Environment after considering the advice of the advisory committee. If the Director was minded to reject the committee's recommendations, the matter would be expected to be referred to Environment CMM or Cabinet.
- 3.7 The advantage of delegating the decision to an officer would be that this would speed up the final decision making process. Representations and objections would be carefully recorded at the advisory committee and the officer making the decision would be present to ensure all representations were taken into account. This would ensure that a swift decision could be made, based on all of the representations received, following on from the advisory committee meeting.

4. CONSULTATION

- 4.1 The proposals have been drawn up in consultation with the Head of Environmental Health and Licensing and Director of Environment who support the proposals on the basis they retain the input of the Licensing Committee, the current openness of the system and make the process as quick as possible.

- 4.2 The Leader of the Council and the Chair of the Licensing Committee have also indicated their support of the new arrangements.
- 4.3 Consultation with the taxi trade will take place at the taxi forum on 29 October and a verbal update on their response will be given at the meeting.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 There are no direct financial implications arising from the recommendations contained within the report. The support required to operate an advisory committee will be absorbed within existing staffing resources.

Finance Officer Consulted: Patrick Rice Date: 17 October 2008

Legal Implications:

- 5.2 The legal implications are contained in the body of the report.

Lawyer Consulted: Elizabeth Culbert Date: 16th October 2008

Equalities Implications:

- 5.3 The proposals in this report retain the same access to all members of the public and anyone wishing to make representations in relation to setting taxi fares.

Sustainability Implications:

- 5.4 None

Crime & Disorder Implications:

- 5.5 The Council uses the power to fix hackney carriage fares to protect consumers.

Risk and Opportunity Management Implications:

- 5.6 The current system for setting fares is well known and understood with the public and taxi trade and therefore any change to these arrangements have the potential to cause concern. By keeping the key public debate with the Licensing Committee (sitting as an advisory committee to the Executive) this should alleviate as far as possible concerns about a new system. Timing can also be sensitive and by delegating the decision to the Director, this will speed up the process, avoiding the need to fit into a further cycle of Cabinet meetings.

Corporate / Citywide Implications:

- 5.7 Ensuring the most transparent, swift and effective means of setting taxi fares in the city supports the Council's priorities of protecting the environment while growing the economy and an open and effective council.

SUPPORTING DOCUMENTATION

Appendices:

1. None
- 2.

Background Documents

1. None
- 2.

