





**Brighton & Hove
City Council**

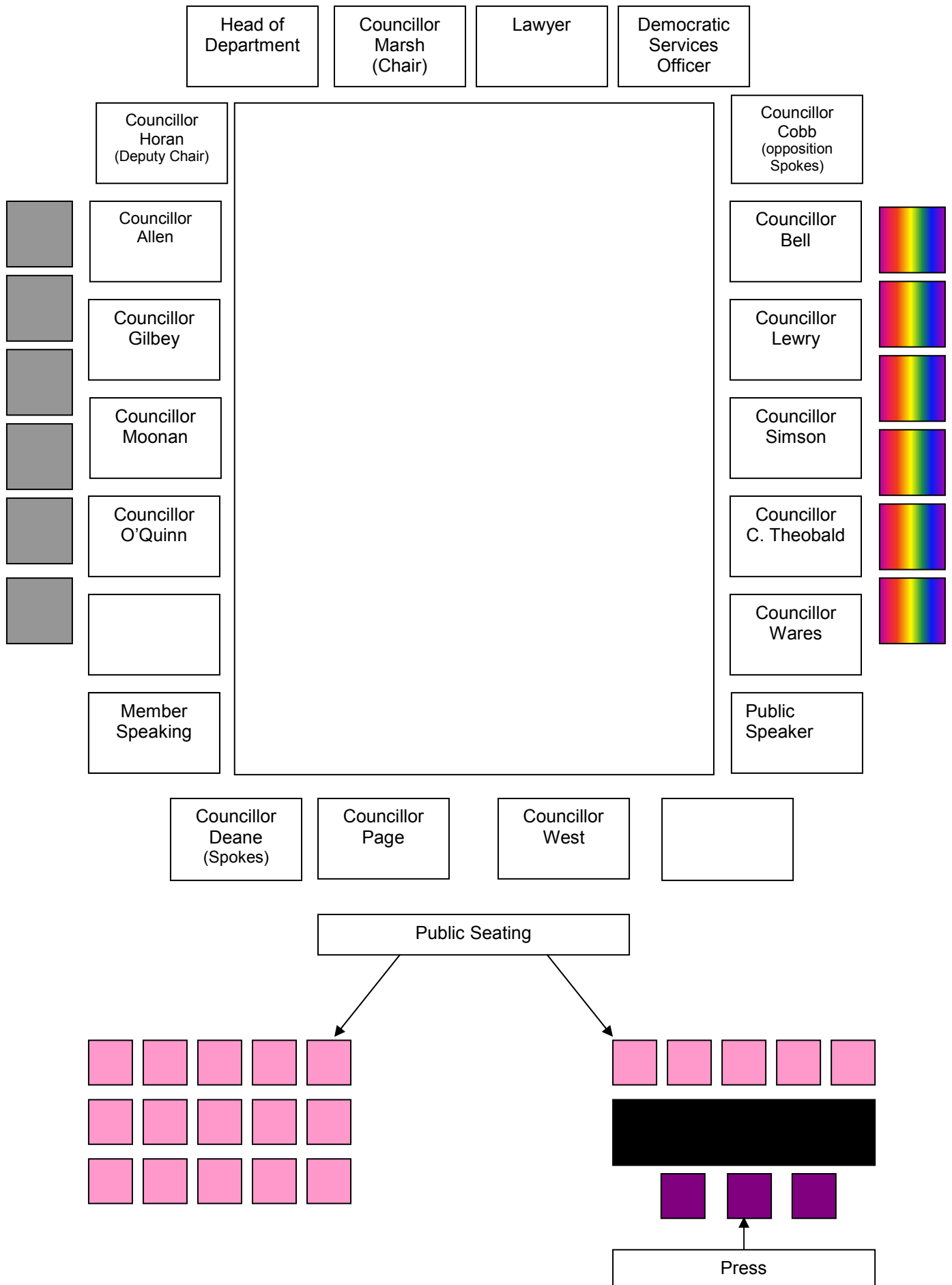
Licensing Committee

(Non-Licensing Act 2003 Functions)

Title:	Licensing Committee (Non Licensing Act 2003 Functions)
Date:	19 November 2015
Time:	3.00pm
Venue	The Main Hall - Friend's Meeting House
Members:	Councillors: Marsh (Chair), Horan (Deputy Chair), Cobb (Opposition Spokesperson), Deane (Group Spokesperson), Allen, Bell, Gilbey, Lewry, Moonan, O'Quinn, Page, Simson, C Theobald, Wares and West
Contact:	Penny Jennings Democratic Services Officer 01273 291065 penny.jennings@brighton-hove.gov.uk

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Democratic Services: Meeting Layout licensing Cttee



AGENDA

10 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:

- (a) Disclosable pecuniary interests not registered on the register of interests;
- (b) Any other interests required to be registered under the local code;
- (c) Any other general interest as a result of which a decision on the matter might reasonably be regarded as affecting you or a partner more than a majority of other people or businesses in the ward/s affected by the decision.

In each case, you need to declare

- (i) the item on the agenda the interest relates to;
- (ii) the nature of the interest; and
- (iii) whether it is a disclosable pecuniary interest or some other interest.

If unsure, Members should seek advice from the committee lawyer or administrator preferably before the meeting.

(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.

11 MINUTES OF THE PREVIOUS MEETING

1 - 4

To consider the minutes of the meeting held on 25 June 2015 (copy attached)

12 CHAIR'S COMMUNICATIONS

13 PUBLIC INVOLVEMENT

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

To consider the following matters raised by members of the public:

- (a) **Petitions:** to receive any petitions presented to the full council or at the meeting itself;
- (b) **Written Questions:** to receive any questions submitted by the due date of 12 noon on the 13 November 2015;
- (c) **Deputations:** to receive any deputations submitted by the due date of 12 noon on the 13 November 2015.

14 MEMBER INVOLVEMENT

To consider the following matters raised by councillors:

- (a) **Petitions:** to receive any petitions submitted to the full Council or at the meeting itself;
- (b) **Written Questions:** to consider any written questions;
- (c) **Letters:** to consider any letters;
- (d) **Notices of Motion:** to consider any Notices of Motion referred from Council or submitted directly to the Committee.

15 LICENCE FEES 2016/2017

5 - 22

Report of the Director of Public Health (copy attached)

Contact Officer: Jean Cranford Tel: 01273 292550
Ward Affected: All Wards

16 HACKNEY CARRIAGE AND PRIVATE HIRE, DRIVERS, VEHICLES AND OPERATORS BLUE BOOK REVIEW – 4TH EDITION

23 - 142

Report of the Director of Public Health (copy attached)

Contact Officer: Jean Cranford Tel: 01273 292550
Ward Affected: All Wards

17 HACKNEY CARRIAGE UNMET DEMAND SURVEY

143 -
300

Report of the Director of Public Health (copy attached)

Contact Officer: Jean Cranford Tel: 01273 292550
Ward Affected: All Wards

18 ITEMS TO GO FORWARD TO COUNCIL

To consider items to be submitted to Council for information.

In accordance with Procedure Rule 24.3a, the Committee may determine that any item is to be included in its report to Council. In addition, any Group may specify one further item to be included by notifying the

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Chief Executive no later than 10am on the eighth working day before the Council meeting at which the report is to be made, or if the Committee meeting take place after this deadline, immediately at the conclusion of the Committee meeting

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.

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Electronic agendas can also be accessed through our meetings app available through www.moderngov.co.uk

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.

For further details and general enquiries about this meeting contact Penny Jennings, (01273 291065, email penny.jennings@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

Date of Publication - Wednesday, 11 November 2015

BRIGHTON & HOVE CITY COUNCIL

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

3.00PM 25 JUNE 2015

MAIN HALL, FRIENDS MEETING HOUSE, SHIP STREET, BRIGHTON

MINUTES

Present: Councillors Marsh (Chair), Horan (Deputy Chair), Cobb (Opposition Spokesperson), Deane (Group Spokesperson), Allen, Bell, Gilbey, Greenbaum, Lewry, Moonan, O'Quinn, Page, Simson, C Theobald and Wares.

PART ONE

1 PROCEDURAL BUSINESS

(a) Declaration of Substitutes

1.1. Councillor Greenbaum declared that she was attending the meeting as a substitute for Councillor West.

(b) Declarations of Interest

1.2. There were no declarations of interest in any of the matters appearing on the agenda.

(c) Exclusion of the Press and Public

1.3. In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Committee considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100I of the Act).

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

2 MINUTES OF THE PREVIOUS MEETING

- 2.1 **RESOLVED** – That the minutes of the Licensing Committee (Non Licensing Act 2003 Functions) Meeting held on the 5th March 2015 be agreed and signed as a correct record.

3 TERMS OF REFERENCE - URGENCY SUB-COMMITTEE

- 3.1 The Committee considered a report of the Head of Legal & Democratic Services, concerning the terms of reference of the committee and outlining the need to appoint an Urgency Sub-Committee.

3.2 RESOLVED:

- (1) That the committee's terms of reference, as set out in Appendix A to the report, be noted;
- (2) That the Committee establish the Licensing Panel as a sub-committee (the membership of such Licensing Panel shall consist of three Members from the trained Members on the Licensing Committee, who will be able to sit on a panel and substitute for any designated Member of the Panel) to deal with licensing applications in accordance with the Terms of Reference as set out at Appendix A to the report;
- (3) That the Committee agree to disapply the proportionality rules so far as a Licensing Panel is concerned in accordance with the Local Government (Committees and Political Groups) Regulations 1990; and
- (4) That the establishment of an Urgency Sub-Committee consisting of the Chair of the Committee and Councillors Cobb and Deane, to exercise its powers in relation to matters of urgency, on which it is necessary to make a decision before the next ordinary meeting of the Committee be approved.

4 CHAIR'S COMMUNICATIONS

- 4.1 The Chair reported that since the last Committee meeting one driver had had their application to renew their licence refused following a conviction for drink driving, five drivers had had their licences suspended on medical grounds and two drivers had received formal warnings.

5 PUBLIC INVOLVEMENT

- 5.1 The Chair reported that no public questions had been received for the meeting.

6 MEMBER INVOLVEMENT

- 6.1 The Chair reported that no items had been submitted by Members for consideration at the current meeting.

7 APP BASED PRIVATE HIRE OPERATORS

- 7.1 The Hackney Carriage Officer introduced the report which provided an update on the issues relating to App based Private Hire Operators. He noted that the matter was currently under review following an application by Transport for London to the High Court and that following deregulation in October, an operator would be able to pass work to another operator outside of the city.
- 7.2 Members of the Committee expressed concerns over how Licensing officers would be able to confirm the suitability of other operators and their drivers and how fees could be monitored. It was noted that currently the Private Hire trade operated a voluntary scheme but this was unlikely to be administered by other operators. Members also expressed concerns about provision for disabled users and training of drivers and the impact of such an operator could have on the current trade in the city.
- 7.3 The Head of Regulatory Services stated that officers shared similar concerns to those of the Committee; however until such an application for an operator's licence was made it was difficult to answer those concerns. He noted that one such provider had made enquiries and may choose to make an application in which case it would need to be heard appropriately.
- 7.4 The Chair noted the information and suggested that the report be noted and any application awaited, in which case the necessary arrangements to hear the application would be made.
- 7.5 **RESOLVED:**
- (1) That the contents of the report be noted; and
 - (2) That it be noted that there may be a need to have reasonable conditions attached to private hire operator licences to protect public safety.

8 REVIEW OF BLUE BOOK IN LIGHT OF CHILD SEXUAL EXPLOITATION

- 8.1 The Licensing & Health Manager introduced the report which provided an update on the proposed revisions to the Blue Handbook for Hackney Carriage and Private Hire Drivers, Vehicles and Operators (the Blue Book). The revisions had been made in light of the recent Child Sexual Exploitation case reviews and inspection reports in Rochdale, Rotherham and Oxford; as well as issues relating to licensing web based taxi providers and other amendments to the Blue Book.
- 8.2 Members of the Committee welcomed the report and the proposed changes and hoped that these would be acceptable to the trade, which had an important role in society.
- 8.3 The Licensing & Health Manager informed that Committee that the proposals were due to be considered by the Taxi Forum on the 14th July and it was hoped to bring a report to the November meeting on the outcome of discussions and consultations.
- 8.4 **RESOLVED:**
- (1) That the contents of the report be noted and that the Committee resolve to amend the Blue Book advice regarding suspensions, current evidence threshold,

justification, the need for enhanced DBS check, Child Sexual Exploitation and modern slavery/human trafficking, (Considered by licensing officers against codified list in blue book); and

- (2) That the Blue Book clearly states the council's position relating to human trafficking and child sexual exploitation.

9 ITEMS TO GO FORWARD TO COUNCIL

- 9.1 No items were identified as being recommended for referral to the Council for information.

The meeting concluded at 3.50pm

Signed

Chair

Dated this

day of

2015

LICENSING COMMITTEE (NON-LICENSING ACT 2003 FUNCTIONS)

Agenda Item 15

Brighton & Hove City Council

Subject:	Licence fees 2016/2017		
Date of Meeting:	19 November 2015		
Report of:	The Director of Public Health		
Contact Officer:	Name:	Tim Nichols	Tel: 29-2163
	Email:	tim.nichols@brighton-hove.gcsx.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report sets out the proposed licence fees and charges for 2016/17 relating to Street Trading, Sex Establishments and Sex Entertainment Licences, Gambling premises, taxi licensing and other licensing functions.

2. RECOMMENDATIONS:

- 2.1 That the committee approves the following licence fees:
- Hackney carriage driver fee, hackney carriage vehicle fee private hire driver fee and private hire vehicle fees all remain the same.
 - Sex entertainment venues and sex establishments remain unchanged
 - Street trading fees (street artists & misc. short term) - decreased by -5%.
 - All Gambling Act 2005 fees – increased by 20% where applicable.

CONTEXT/ BACKGROUND INFORMATION

- 3.1 In order to ensure that council tax payers are not subsidising work concerning licensing administration, income is raised by licence fees which aim to cover the cost of administration of each regime within constraints of regulation. Licence fees should not be used to raise revenue. We have undertaken a further review of the way we have calculated the charges so that they are now based on the most recent detailed analysis of officer time. The regulation of setting fees is detailed and changes as a result of legislation and cases; outlined below.

3.2 Licence Fee Setting – general principles

1. There must be a proper determination of the authorisation fee (see Hemming [2013] EWCA Civ 591).
2. A clear understanding of the policy and objects of the regime in question is required. It follows that the relevant considerations for vetting an applicant for a street trading licence will be different to those required for a sex establishment (see R v Manchester City Council ex parte King (1991) 89 LGR 696; also R (on the application of Davis & Atkin) v Crawley Borough Council [2001] EWHC 854

(Admin)). Particular attention needs to be had to those statutory provisions where a power is given to the local authority for the determination of an authorisation fee and other administrative fees.

3. Applicability of the European Services Directive (see Hemming [2015] EWHC 1260 (Admin) and [2013] EWCA Civ 591 and UKSC 25: The Directive applies to street trading and sex licensing; not gambling or taxis.

4. Different fee levels for different types of application. A licensing authority is entitled to set either the same or different fee levels for different types of applications: i.e. grant, renewal, variation, alteration or transfer. R v Greater London Council, ex parte Rank Organisation [1982] LS Gaz R 643.

5. Recovery of deficit. In R v Westminster City Council, ex parte Hutton (1985) 83 L.G.R. 461 it was held that where the fee income generated in one year fails to meet the costs of administering the licensing system, it is open to the local authority to make a proportionate increase in the licence fee for the following year so as to recoup the cost of the shortfall (Hutton at p 518). This longstanding principle was confirmed in Hemming [2012].

6. Accounting for surplus. In Hemming [2012] EWHC 1260 (Admin) and [2013] EWCA Civ 591 the court determined surpluses as well as deficits are to be carried forward. The licensing authority is not entitled to make a profit. (R v Manchester ex parte King 1991 89 LGR 696.

7. Rough and ready calculations. In Hemming [2012] EWHC 1260 (Admin) and [2013] EWCA Civ 591, the court did not require pin-point precision year on year. The council does not have to adjust the licence fee every year to reflect any previous deficit or surplus, so long as it 'all comes out in the wash' eventually. And the adjustment does not have to be precise: a rough and ready calculation which is broadly correct will do.

8. Anticipated costs. Cases demonstrate that the fee level may be fixed by reference to anticipated costs of administering the authorisation scheme.

9. Over-estimation. If the fee levied in the event exceeds the cost of operating the scheme, the original decision will remain valid provided it can be said that the district council reasonably considered such fees would be required to meet the total cost of operating the scheme. R v M ex parte King.

Hackney Carriage & Private Hire

- 3.3 The Council must be able to show that it calculates hackney carriage and private hire licensing fees in accordance with the specific requirements of the Local Government (Miscellaneous Provisions) Act 1976. This requires that such fees have to be reasonable to recover the cost of issue and administration of licences. They cannot be used to raise revenue or fund activities such as taxis marshals. This has been confirmed in a recent court case Cummings and Others v Cardiff City Council which also confirmed that fees set must have regard to any surplus or deficit in previous years for each regime (hackney carriage or private hire) The Act allows the following costs to be recovered in the fees:

- The reasonable cost of carrying out vehicle inspection to decide if a licence should be granted
- The reasonable costs of providing hackney carriage stands
- Any reasonable administrative or other costs in connection with vehicle inspection and providing hackney carriage stands and
- Any reasonable administrative or other costs in the control and supervision of hackney carriage and private hire vehicles.

The Council aims to be transparent in recording or presenting its method for calculating licence fees. This report aims to do that.

- 3.4 A trading position has been established, taking into account all expenditure that the Council has incurred in administering the service, including both direct and indirect costs. (Indirect costs for example would include an element of management time to oversee the activity, a legitimate expense in administering the licensing function). The results are set out in the table below.

Taxi Licensing	
Financial Year	£'000 (Surplus)/ Deficit
2014/15 Actual	15
2015/16 Forecast	9
2016/17 Budget	-2
Total	22

- 3.5 The proposed fees remain unchanged to help reduce the annual deficit with an aim to bring the trading account to a breakeven position. Cummings & Others v Cardiff City Council 2014 confirmed that licensing authorities must take into account previous deficits and surpluses when setting fees. The Council budget setting does not normally facilitate carrying forward deficits, and so, in line with corporate charging policy officers recommend aiming for full cost recovery within the annual financial period to avoid creating deficits. Corporate fees and charges policy aims to increase the proportion of income contributed by users of services where appropriate, rather than the cost being met from the general council tax payer. Charges should not be levied on services where there is no legal basis to charge for a service but charges for services provided should be set to recover costs including central overheads. Detailed Trading Accounts are attached in Appendix 1-3.

Sex establishments and Street trading

- 3.6 R v. Manchester ex parte King - fees should be set at a level reasonably expected to cover costs. Surplus should be reinvested in service.
- 3.7 Sex establishments: A breakdown of inspections carried out during 2014/15 by officers shows that an insignificant amount of inspections related to unlicensed premises. The administration of sex establishments and SEVs is broken down as follows:
There are 5 Sex Establishments in total, for which renewal applications are processed annually, including officers carrying out annual inspections to ensure

compliance with their licence. It is unlikely that a further sex establishment licence would be granted as this would be contra policy.

SEVS: There are 3 SEVs in total. SEV fees are based on licence renewals. It is unlikely that a further SEV licence would be granted as this would be contra policy. Annual inspections are carried out to ensure compliance with their licence.

- 3.8 A trading position has been established, taking into account all expenditure that the Council has incurred in administering the service, including both direct and indirect costs. (Indirect costs for example would include an element of management time to oversee the activity, a legitimate expense in administering the licensing function). The results are set out in the table below.

Sex Establishments and Sex Entertainment Venues	
Financial Year	£'000 (Surplus)/ Deficit
2014/15 Actual	-21
2015/16 Forecast	-9
2016/17 Budget	-9
Total	-40
Assumption: Maintain fees at 2015-16 levels	

The proposed fees remain unchanged to help bring the trading account to a breakeven position. Detailed Trading Accounts are attached in Appendix 1-3.

- 3.9 Following the same principles as stated previously, a trading position has been established for Street Trading. During 2014/15, the majority of inspections carried out by officers are recoverable. The administration of street trading is wholly recoverable, broken down as follows:

Zone A:-

3 traders at 50 sq ft – all pay quarterly
2 traders at 42 sq ft - Ditto

Zone B:-

17 traders – 2 have paid in full, 15 pay by quarterly instalments

Upper Gardner Street Saturday Market:-

Total 51 traders – 3 pay in full with the remainder of the traders paying by quarterly instalments.

- 3.10 Taking into account all the council expenditure incurred in administering the service including an element of management time to oversee the activity, the results are set out in the table below.

Street Trading	
Financial Year	£'000 (Surplus)/ Deficit
2014/15 Actual	-33
2015/16 Forecast	-19
2016/17 Budget	-16
Total	-68
Assumption: Reduce fees by an average of 5% to help reduce surplus position	

Fees should be set each year to recover the expected cost of administering the service. The proposed fee changes (-5%) help to reduce the annual surplus with an aim to bring the trading account to a breakeven position. Detailed Trading Accounts are attached in Appendix 1-3.

Gambling Act 2005

- 3.11 There is a proposed increase in gambling fees of 20% (where applicable) to help reduce the current deficit and bring the trading account to a breakeven position. This increase reflects the increased enforcement carried out by officers including test purchase operations with the Gambling Commission. Trading accounts can be found at Appendix 2.

Gambling Act	
Financial Year	£'000 (Surplus)/ Deficit
2014/15 Actual	22
2015/16 Forecast	19
2016/17 Budget	12
Total	53
Assumption: Increase fees by 20% to reduce deficit position	

- 3.12 Licensing (Income and Banking) was audited between August and October 2012. The internal auditors reported that Substantial Assurance is provided on the effectiveness of the internal controls over the Licensing Income and Banking system. This opinion means that the effective controls are in place to manage the key risks to the system.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

Fees must be set.

5. COMMUNITY ENGAGEMENT AND CONSULTATION

- 5.1 Council's finance officer and legal services.

6. CONCLUSION

Fees must be set.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 License fees are set annually at a level that it is reasonably believed will cover the costs of providing the service, and in accordance with the legal principles involved. This is necessary in order to ensure that council tax payers are not subsidising work concerning licensing administration. Detailed trading accounts are attached in Appendix 1-3.

Finance Officer Consulted: Michael Bentley

Date 08.10.15

Legal Implications:

- 7.2 Legal constraints on setting fees

Fees must be charged in accordance with the requirements of the legislation under which they are charged. Thus for instance the Licensing Act 2003 gives the Council no discretion as they are set centrally by the relevant government department. Other legislation such as the Local Government (Miscellaneous Provisions) Act 1982 which covers a whole raft of activities and includes street trading and sex establishments simply states that we may charge such fees as we consider reasonable.

The term 'Reasonable' however does not imply wide discretion but incorporates important legal principles and constraints. These were highlighted in the case of *R v Manchester City Council ex parte King* concerning street trading. This case held that the fees charged must be related to the costs incurred in providing the street trading service. They must not be used to raise revenue generally. This principle is key and applies to other licensing regimes such as sex establishments. This means the fees must be set at a level reasonably expected to cover the cost of providing the service.

This principle has been reinforced by the introduction of the European Services Directive which took effect from the end of 2009. It aims to ensure that licence applications and procedures are transparent and burdens on business kept to a minimum. The processes must be non-discriminatory, justified, proportionate, clear, objective, made in advance, transparent and accessible.

Therefore the trading accounts must be carefully looked at in accordance with these principles. There is a risk of challenge by way of Judicial Review in cases where fees are set at an unreasonable or unlawful level.

Lawyer Consulted: Rebecca Sidell

Date: 06.11.15

Equalities Implications:

- 7.3 There are no direct equalities implications.

Sustainability Implications:

- 7.4 There are no direct sustainability implications.

Any Other Significant Implications:

- 7.5 The council has to adapt if we are to meet the funding gap over the next four years that we are expecting. This follows savings already made over the past four years. This gap is caused by reductions in the way we are funded centrally from Government at the same time as general costs of providing services are increasing with demand for services also rising growth in the local population. People are living longer and the population is becoming more diverse. So the way people live and their needs are changing, and demand for services has gone up as a result. People's basic expectations about how and when they contact services provided by the council have changed. It is in Council interests for more services to take advantage of new technology, so that we can tailor provision to their needs, but it also requires significant investment at a time of reducing resources. None of these things alter the nature of the council's purpose or our responsibilities. But they do mean that the way in which the council as an organisation is run and managed, and the way in which the authority responds to demand for services has to change radically at a pace with society and financial necessity. Corporate fees and charges policy aims to increase the proportion of income contributed by users of services where appropriate, rather than the cost being met from the general Council taxpayer. All decisions for service change are taken openly, through democratic process, but we can expect that the council will become a smaller organisation. Environmental sustainability, city regeneration, transport, culture, leisure & tourism are priorities.

SUPPORTING DOCUMENTATION

Appendices:

- 1-2 Trading Accounts.
3-4. List of fees and charges.

Documents in Members' Rooms

1. None.
2. None.

Background Documents

1. None.

Taxi Licensing - Three Year Accounts

2014-15 Financial Year Actual								
CIPFA Standard Subjective	Hackney Carriages -		Hackney Carriages -		Private Hire - Vehicles		Private Hire - Drivers	
	Apportionment Allocation		Apportionment Allocation		Apportionment Allocation		Apportionment Allocation	
	%	£	%	£	%	£	%	£
Direct Employees		39,577		52,622		16,757		19,680
Indirect Employees (Non DBS)	30%	578	42%	811	12%	241	16%	308
Indirect Employees (DBS)	0%	0	66%	17,959	0%	0	34%	9,145
Premises Related	30%	149	42%	209	12%	62	16%	79
Transport Related	30%	442	42%	620	12%	185	16%	235
Driver Assessments/Checks	0%	0	66%	18,206	0%	0	34%	9,271
Supplies and Services	30%	9,350	42%	13,123	12%	3,907	16%	4,979
Support Services	30%	14,398	42%	20,208	12%	6,017	16%	7,667
Management Overhead	30%	18,102	42%	25,406	12%	7,565	16%	9,639
Total Expenditure		82,595		149,164		34,734		61,004
Total Income		-90,684		-103,918		-68,066		-50,269
Total (Surplus) / Deficit		-8,089		45,245		-33,331		10,735

2015-16 Financial Year Forecast								
CIPFA Standard Subjective	Hackney Carriages -		Hackney Carriages -		Private Hire - Vehicles		Private Hire - Drivers	
	Apportionment Allocation		Apportionment Allocation		Apportionment Allocation		Apportionment Allocation	
	%	£	%	£	%	£	%	£
Direct Employees		40,266		54,370		17,325		20,566
Indirect Employees (Non DBS)	30%	768	42%	1,078	12%	321	16%	409
Indirect Employees (DBS)	0%	0	66%	16,565	0%	0	34%	8,435
Premises Related	30%	149	42%	209	12%	62	16%	79
Transport Related	30%	476	42%	669	12%	199	16%	254
Unmet Demand Survey	100%	16,304	0%	0	0%	0	0%	0
Driver Assessments/Checks	0%	0	66%	21,799	0%	0	34%	11,101
Supplies and Services	30%	6,824	42%	9,578	12%	2,852	16%	3,634

Support Services	30%	17,864	42%	25,072	12%	7,465	16%	9,513
Management Overhead	30%	16,847	42%	23,645	12%	7,040	16%	8,971
Total Expenditure		99,499		152,984		35,265		62,962
Total Income		-92,130		-153,057		-32,873		-63,400
Total (Surplus) / Deficit		7,369		-73		2,392		-438

2016-17 Financial Year Budget								
CIPFA Standard Subjective	Hackney Carriages -		Hackney Carriages -		Private Hire - Vehicles		Private Hire - Drivers	
	Apportionment	Allocation	Apportionment	Allocation	Apportionment	Allocation	Apportionment	Allocation
	%	£	%	£	%	£	%	£
Direct Employees		40,678		54,897		17,493		20,758
Indirect Employees (Non DBS)	30%	783	42%	1,099	12%	327	16%	417
Indirect Employees (DBS)	0%	0	66%	16,896	0%	0	34%	8,604
Premises Related	30%	152	42%	213	12%	63	16%	81
Transport Related	30%	485	42%	681	12%	203	16%	258
Unmet Demand Survey	100%	0	0%	0	0%	0	0%	0
Driver Assessments/Checks	0%	0	66%	22,230	0%	0	34%	11,320
Supplies and Services	30%	6,955	42%	9,761	12%	2,907	16%	3,704
Support Services	30%	18,224	42%	25,578	12%	7,616	16%	9,704
Management Overhead	30%	17,091	42%	23,987	12%	7,142	16%	9,101
Total Expenditure		84,368		155,342		35,751		63,947
Total Income		-92,130		-153,057		-32,873		-63,400
Total (Surplus) / Deficit		-7,762		2,284		2,878		548
Total Three-Year (Surplus) / Deficit		-8,482		47,456		-28,061		10,845

Licence Fee - Three Year Accounts

2014-15 Financial Year Actual						
CIPFA Standard Subjective	Sex Establishments		Street Trading (Legal)		Gambling Act	
	Apportionment	Allocation	Apportionment	Allocation	Apportionment	Allocation
	%	£	%	£	%	£
Direct Employees		11,811		23,353		31,053
Indirect Employees	4%	109	8%	214	11%	294
Premises	4%	0	8%	0	11%	0
Transport	4%	57	8%	111	11%	153
Supplies and Services	4%	407	8%	796	11%	1,095
Support Services	4%	5,504	8%	10,757	11%	14,802
Management Overheads	4%	3,228	8%	6,310	11%	8,683
Total Expenditure		21,117		41,540		56,080
Total Income		-42,134		-74,868		-33,667
Total (Surplus) / Deficit		-21,017		-33,328		22,413

2015-16 Financial Year Forecast						
CIPFA Standard Subjective	Sex Establishments		Street Trading (Legal)		Gambling Act	
	Apportionment	Allocation	Apportionment	Allocation	Apportionment	Allocation
	%	£	%	£	%	£
Direct Employees		11,652		23,092		30,750
Indirect Employees	4%	181	8%	355	11%	488
Premises	4%	0	8%	0	11%	0
Transport	4%	98	8%	191	11%	262
Supplies and Services	4%	372	8%	727	11%	1,001
Support Services	4%	4,883	8%	9,544	11%	13,134
Management Overheads	4%	3,028	8%	5,918	11%	8,144
Total Expenditure		20,214		39,827		53,779
Total Income		-29,600		-58,724		-35,019
Total (Surplus) / Deficit		-9,386		-18,897		18,760

2016-17 Financial Year Budget						
CIPFA Standard Subjective	Sex Establishments		Street Trading (Legal)		Gambling Act	
	Apportionment	Allocation	Apportionment	Allocation	Apportionment	Allocation
	%	£	%	£	%	£
Direct Employees		11,724		23,259		30,934
Indirect Employees	4%	185	8%	362	11%	498
Premises	4%	0	8%	0	11%	0
Transport	4%	99	8%	194	11%	267
Supplies and Services	4%	379	8%	741	11%	1,020
Support Services	4%	4,982	8%	9,737	11%	13,399
Management Overheads	4%	3,044	8%	5,948	11%	8,186
Total Expenditure		20,413		40,241		54,303
Total Income		-29,600		-55,830		-42,015
Total (Surplus) / Deficit		-9,187		-15,589		12,288
Total Three-Year (Surplus) / Deficit		-39,590		-67,814		53,461

LICENCING FEES				
	2015-16		2016-17	
	Agreed Fee £		Proposed Fee £	Change %
Sex Establishments and Venues				
Sex Entertainment Venue	£3,700.00		£3,700.00	0.0%
Sex Establishments - Grants	£3,700.00		£3,700.00	0.0%
Sex Establishments - Renewal	£3,700.00		£3,700.00	0.0%
Sex Establishments - Occasional	£2,000.00		£2,000.00	0.0%
Street Trading				
Upper Gardner Street	£536.00		£510.00	-4.9%
Zone B	£642.00		£610.00	-5.0%
Zone A 50 sq ft.	£4,410.00		£4,190.00	-5.0%
Zone A 42 sq. ft.	£3,622.00		£3,440.00	-5.0%
Street Artists	£30.00		£30.00	0.0%
Misc. Short Term	£30.00		£30.00	0.0%
Farmers Maker (per stall)	£230.00		£220.00	-4.3%
Small Street Marker (per occasion)	£307.00		£290.00	-5.5%
Gambling Act				
Existing Casino - Reg 4 (2) (a)	£300.00		£360.00	20.0%
Existing Casino - Reg 4 (2) (b)	£1,195.00		£1,434.00	20.0%
Existing Casino - Reg 6 and Reg 8	£1,694.00		£2,032.00	20.0%
Existing Casino - Reg 10	£11.55		£13.85	19.9%
Existing Casino - Reg 11	£1,195.00		£1,434.00	20.0%
Existing Casino - Reg 12	£1,195.00		£1,350.00	13.0%
Existing Casino - Reg 13	£11.55		£13.85	19.9%
Existing Casino - Reg 14	£1,195.00		£1,350.00	13.0%
Bingo Premises - Reg 4 (2) (a)	£300.00		£360.00	20.0%
Bingo Premises - Reg 4 (2) (b)	£1,195.00		£1,434.00	20.0%
Bingo Premises - Reg 5 (2) (a)	£617.50		£741.00	20.0%
Bingo Premises - Reg 5 (2) (b)	£1,195.00		£1,434.00	20.0%
Bingo Premises - Reg 6 and Reg 8	£594.00		£712.50	19.9%
Bingo Premises - Reg 10	£11.55		£13.85	19.9%
Bingo Premises - Reg 11	£1,195.00		£1,434.00	20.0%
Bingo Premises - Reg 12	£1,195.00		£1,200.00	0.4%
Bingo Premises - Reg 13	£11.55		£13.85	19.9%
Bingo Premises - Reg 14	£1,195.00		£1,200.00	0.4%
Bingo Premises - Reg 15	£1,195.00		£1,434.00	20.0%
AGCs - Reg 4 (2) (a)	£300.00		£360.00	20.0%
AGCs - Reg 4 (2) (b)	£1,000.00		£1,200.00	20.0%
AGCs - Reg 5 (2) (a)	£617.50		£741.00	20.0%
AGCs - Reg 5 (2) (b)	£1,195.00		£1,434.00	20.0%
AGCs - Reg 6 and Reg 8	£594.00		£712.50	19.9%
AGCs - Reg 10	£11.55		£13.85	19.9%

AGCs - Reg 11	£1,000.00	£1,000.00	0.0%
AGCs - Reg 12	£1,195.00	£1,200.00	0.4%
AGCs - Reg 13	£11.55	£13.85	19.9%
AGCs - Reg 14	£1,195.00	£1,200.00	0.4%
AGCs - Reg 15	£1,195.00	£1,434.00	20.0%
Betting Tracks - Reg 4 (2) (a)	£300.00	£360.00	20.0%
Betting Tracks - Reg 4 (2) (b)	£1,195.00	£1,434.00	20.0%
Betting Tracks - Reg 5 (2) (a)	£617.50	£741.00	20.0%
Betting Tracks - Reg 5 (2) (b)	£1,195.00	£1,434.00	20.0%
Betting Tracks - Reg 6 and Reg 8	£594.00	£712.80	20.0%
Betting Tracks - Reg 10	£11.55	£13.85	19.9%
Betting Tracks - Reg 11	£1,195.00	£1,250.00	4.6%
Betting Tracks - Reg 12	£950.00	£950.00	0.0%
Betting Tracks - Reg 13	£11.55	£13.85	19.9%
Betting Tracks - Reg 14	£950.00	£950.00	0.0%
Betting Tracks - Reg 15	£1,195.00	£1,434.00	20.0%
FECs - Reg 4 (2) (a)	£300.00	£360.00	20.0%
FECs - Reg 4 (2) (b)	£1,000.00	£1,200.00	20.0%
FECs - Reg 5 (2) (a)	£617.50	£741.00	20.0%
FECs - Reg 5 (2) (b)	£1,195.00	£1,434.00	20.0%
FECs - Reg 6 and Reg 8	£456.50	£547.80	20.0%
FECs - Reg 10	£11.55	£13.85	19.9%
FECs - Reg 11	£1,000.00	£1,000.00	0.0%
FECs - Reg 12	£950.00	£950.00	0.0%
FECs - Reg 13	£11.55	£13.85	19.9%
FECs - Reg 14	£950.00	£950.00	0.0%
FECs - Reg 15	£1,155.00	£1,386.00	20.0%
Betting Other - Reg 4 (2) (a)	£300.00	£360.00	20.0%
Betting Other - Reg 4 (2) (b)	£1,195.00	£1,434.00	20.0%
Betting Other - Reg 5 (2) (a)	£617.50	£741.00	20.0%
Betting Other - Reg 5 (2) (b)	£1,195.00	£1,434.00	20.0%
Betting Other - Reg 6 and Reg 8	£374.00	£448.80	20.0%
Betting Other - Reg 10	£11.55	£13.85	19.9%
Betting Other - Reg 11	£1,195.00	£1,434.00	20.0%
Betting Other - Reg 12	£1,195.00	£1,200.00	0.4%
Betting Other - Reg 13	£11.55	£13.85	19.9%
Betting Other - Reg 14	£1,195.00	£1,200.00	0.4%
Betting Other - Reg 15	£1,195.00	£1,434.00	20.0%
Lotteries New - Reg 12	£40.00	£40.00	0.0%
Lotteries New - Reg 14	£40.00	£40.00	0.0%
Renewal - Reg 12	£20.00	£20.00	0.0%
Renewal - Reg 14	£40.00	£40.00	0.0%

TAXI LICENCE FEES			
	2015-16	2016-17	
	Agreed Fee £	Proposed Fee £	Change %
First Application (drivers - not including licence)	£101.00	£101.00	0.0%
DBS Check*	£44.00	£44.00	0.0%
Hackney Carriage Drivers Licence (3 year Licence)	£300.00	£300.00	0.0%
Private Hire Drivers Licence (3 year Licence)	£228.00	£228.00	0.0%
Hackney Carriage Vehicle Licence (Full Year)	£166.00	£166.00	0.0%
Hackney Carriage Vehicle Licence (Half Year)	£83.00	£83.00	0.0%
Private Hire Vehicle Licence (Full Year)	£65.00	£65.00	0.0%
Private Hire Vehicle Licence (Half Year)	£32.50	£32.50	0.0%
Hackney Carriage Plate Deposit	£33.00	£33.00	0.0%
Private Hire Plate Deposit	£24.00	£24.00	0.0%
Private Hire Operator Licence (1 or 2 Cars) - 5 Year Licence	£145.00	£145.00	0.0%
Private Hire Operator Licence (3 or more Cars) - 5 Year Licence	£515.00	£515.00	0.0%
Hackney Carriage Substitute Vehicle Fee	£25.00	£25.00	0.0%
Private Hire Substitute Vehicle Fee	£25.00	£25.00	0.0%
Knowledge Test Fee	£25.00	£25.00	0.0%
Route Test Fee	£35.00	£35.00	0.0%

**Note that DBS fees are not set by Brighton & Hove City Council*

Gambling Act 2005 Proposed 2016/17 CHARGE PER UNIT

Table of Premises Licence Fees for Brighton & Hove Licensing Authority

Classes of Premises Licence	Reg. 5(2)(a) Non Conversion - Provisional Statement Premises	Reg. 5(2)(b) Non Conversion - Other Premises	Reg. 6 and Reg. 8 First Annual and Annual Fees	Reg. 10 Change of Circumstance	Reg. 11 Variation	Reg. 12 Transfer	Reg. 13 Copy of Licence	Reg. 14 Reinstate -ment	Reg. 15 Provisional Statement
Existing Casino	n/a	n/a	£2032 [3,000]	£13.85 [50]	£1434 [2,000]	£1,350 [1,350]	£13.85 [25]	£1,350 [1,350]	n/a
Bingo Premises	£741.00 [1,200]	£1434.00 [3,500]	£712.50 [1,000]	£13.85 [50]	£1,434 [1,750]	£1,200 [1,200]	£13.85 [25]	£1,200 [1,200]	£1,434 [3,500]
AGCs	£741.00 [1,200]	£1,434.00 [2,000]	£712.50 [1,000]	£13.85 [50]	£1,000 [1,000]	£1,200 [1,200]	£13.85 [25]	£1,200 [1,200]	£1,434 [2,000]
Betting – Tracks	£741.00 [950]	£1,434.00 [2,500]	£712.50 [1,000]	£13.85 [50]	£1,250 [1,250]	£950 [950]	£13.85 [25]	£950 [950]	£1,434 [2,500]
FECs	£741.00 [950]	£1,434.00 [2,000]	£547.80 [750]	£13.85 [50]	£1,000 [1,000]	£950 [950]	£13.85 [25]	£950 [950]	£1,386 [2,000]
Betting - Other	£741.00 [1,200]	£1,434.00 [3,000]	£448.80 [600]	£13.85 [50]	£1,434 [1,500]	£1,200 [1,200]	£13.85 [25]	£1,200 [1,200]	£1,434 [3,000]
Lotteries- New						£40.00	*	£40.00	0.00
- Renewal						£20.00	*	£40.00	0.00

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 16

Brighton & Hove City Council

Subject:	Hackney Carriage and Private Hire, Drivers, Vehicles and Operators Blue Book Review – 4th Edition		
Date of Meeting:	19 November 2015		
Report of:	Director of Public Health		
Contact Officer:	Name:	<i>Martin Seymour</i>	Tel: 29-6659
	E-mail:	Martin.seymour@brighton-hove.gcsx.gov.uk	
Wards Affected:	All		

1. PURPOSE OF REPORT AND POLICY CONTEXT:

To review byelaws, conditions advice and information for Hackney Carriage and Private Hire, Drivers, Vehicles and Operators contained in the blue handbook. (The Blue Book).

2. RECOMMENDATIONS:

- 2.1 That Committee approve the handbook 4th Edition of the handbook (Appendix A)

3. CONTEXT/ BACKGROUND INFORMATION:

- 3.1 The Council licenses Hackney Carriage and Private Hire, Drivers, Vehicles, and Private Hire Operators. The authority for doing so is by adoption of the Local Government (Miscellaneous Provisions) Act 1976, Part II. (Section 45), The Town Police Clauses Act 1847, (Section 68) and the Public Health Act 1875, (Section 171).

The Acts require that the Council must be satisfied that the vehicle is: -

- suitable in type, size and design for use as a hackney carriage or private hire vehicle and it is in a suitable mechanical condition, safe and comfortable.

In the case of private hire vehicles it is further required that

- they must not be of such design or appearance as to lead any person to believe that the vehicle is a hackney carriage.

Any vehicle used as a hackney carriage or for private hire must

- have in force a policy of insurance in relation to the use of that vehicle.

In addition to the statutory requirements a Council may attach to the grant of a licence such conditions, as the Council considers reasonably necessary. However, the 1985 Transport Act specifically states that the Council shall not

refuse such a licence for the purpose of limiting the number of vehicles in respect of which such licences are granted by the Council. It should be noted that in the case of hackney carriages the numbers may be limited only if the Council can show there to be no significant unmet demand for this type of vehicle licence. In respect of the issue of driver's licences the Local Government (Miscellaneous Provisions) Act of 1976 requires the Council to be satisfied that each applicant is a fit and proper person to hold such a licence prior to its grant. There is no authority to attach any condition to a hackney carriage driver's licence as they are controlled by means of byelaws, but conditions may be applied to private hire driver licences.

- 3.2 The handbook was designed to combine many bye laws, conditions, advice and information for hackney carriage and private hire drivers, vehicles and operators previously in various and separate forms and was first approved by committee in February 2007. Following the publication of the Casey report that looked at child sexual exploitation in Rotherham, cases of child exploitation in Oxford, Birmingham and in other cities as well as some recent cases in Brighton & Hove it became apparent that the handbook needed revision with a greater emphasis on protecting children & vulnerable adults.
- 3.3 The Report of Inspection of Rotherham Metropolitan Borough Council by Louise Casey CB can be found at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/401125/46966_Report_of_Inspection_of_Rotherham_WEB.pdf
- 3.4 Parts A, B & C have been extensively revised. Part A now contains licensing objectives, Code of Conduct when working with vulnerable passengers, safeguarding children and vulnerable people, human trafficking and child sexual exploitation. The council is empowered in law to check for the existence and content of any criminal record held in respect of an applicant for a hackney carriage or private hire, vehicle, driver or operator licence so when submitting an application for such a licence an applicant is required to declare all convictions (whether or not spent), Cautions, Conditional Cautions, Community Resolutions, Anti Social Behaviour Orders, Criminal Behaviour Orders, County Court and High Court Injunctions, including Injunctions to prevent nuisance and annoyance or Fixed Penalty Notices (personally or business related), they have recorded against them, and any pending proceedings. The guidance relating to the relevance of the above types of offences when considering an application or reviewing an existing licence has been extensively amended and brought up to date with new types of offences. Section 2.(D) 130 -145.
- 3.5 Any amendments, changes or additions approved and issued by the council to this handbook must be attached to the inside of this cover and treated as if they are part of the handbook.
- 3.6 It is best practice to review any policies adopted by the council every three years. The handbook should therefore be reviewed in 2018.

- 3.7 It is intended that the handbook will be produced in a booklet format and made available for all hackney carriage & private hire, drivers, proprietors & operators.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

None

5. COMMUNITY ENGAGEMENT & CONSULTATION

Finance, Legal Services, Taxi Forum, Safeguarding and Quality Assurance Team. The matter has been discussed at the council's Hackney Carriage and Private Hire Consultation Forum. There are opposing views in the Taxis Forum some supporting members 28 day minimum recording others are against based on cost associated with retaining images for longer periods.

6. CONCLUSION

That members consider the recommendations.

7. FINANCIAL & OTHER IMPLICATIONS:

7.1 Financial Implications

The costs associated with revising the Blue Book have been met from within existing revenue budgets.

Finance Officer Consulted: Michael Bentley

Date: 30/10/2015

7.2 Legal Implications

There are no direct legal implications other than those set out in the body of the report.

Lawyer: Rebecca Sidell Date: 09/11/2015

7.3 Equalities Implications:

Recommendations are designed to promote equality of opportunity, eliminate unlawful discrimination, promote participation in public life and meet the needs of disabled people. Improving access to taxis/Private Hire Vehicles (PHVs) is a priority action in the council's Equality Scheme. Improving access to services by public transport is included in the Local Area Agreement.

7.4 Sustainability Implications:

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.

SUPPORTING DOCUMENTATION

Appendices: A

4th Edition of the Blue Book



Brighton & Hove City Council

BLUE HANDBOOK FOR HACKNEY CARRIAGE AND PRIVATE HIRE, DRIVERS, VEHICLES AND OPERATORS 4th Edition

ANY AMENDMENTS, CHANGES OR ADDITIONS APPROVED AND ISSUED BY THE COUNCIL TO THIS HANDBOOK MUST BE ATTACHED TO THE INSIDE OF THIS COVER AND TREATED AS IF THEY ARE PART OF THE HANDBOOK.

This edition was approved The Licensing Committee on the Nov 2015.

Date of next complete review November 2018.

Hackney Carriage and Private Hire Handbook

This handbook has been produced to give guidance to drivers, proprietors and operators of the above vehicles, and has been

Adopted as the policy document of the Council

Any requirements of legislation that has effect on the operations being carried out under the terms of any licence granted should be regarded as if they are requirements of that licence. Wherever there appears in this Handbook a summary of any statutory provisions you are advised that such summary may not be exhaustive.

Information held on Drivers, Vehicles and Operators

Any information held will be used for the purposes of licensing hackney carriage/private hire drivers and operators but it may be used for other Council purposes where this is permitted by law. The Council is registered under the Data Protection Act 1998 for these purposes. This Authority is under a duty to protect the public funds it administers. We may check information provided, or information provided by a third party, with other information held, such as Council Tax and Housing Benefit, to check the accuracy of information; to prevent or detect crime; and to protect public funds and in other ways permitted by law. The Council may also share this information with other public bodies administering public funds for these purposes, the Police, HM Revenue and Customs, UK Visas and Immigration, Department for Works and Pensions (DWP). These may include other government departments and other local authorities. Driver, Vehicle and Operator registers will be made public and appear on the Councils website. We will not disclose information about you to anyone, unless the law permits us to. The Council is the Data Controller for the purposes of the Data Protection Act 1998.

The Council may vary any or all of the conditions herein contained at any time

Part A

1. Introduction

Brighton & Hove City Council is responsible for the regulation of the Hackney Carriage and Private Hire trades within the boundaries of the borough of Brighton & Hove and recognises the important role that Hackney Carriages and Private Hire Vehicles and their driver's play in enabling people to travel around the borough whilst, playing a visible role in portraying the image of Brighton & Hove City Council to all.

Customers rightly expect that in using Hackney Carriages and Private Hire's they will be transported safely. In addition, it is in everyone's interest to ensure that customer experiences are positive. This will help to ensure that the industry and the local economy thrive.

This document contains the policy and related procedures that will guide the work of the licensing authority (the Council) in the way in which it carries out its functions. This document sets out the requirements and standards that must be met. In exercising its discretion in carrying out its regulatory functions, the council will have regard to this policy document. However each application or enforcement action will be considered on its own merits.

The Council will formally review the policy statement at least every three years and informally re-evaluate it from time to time. Where revisions are made, the Council will publish a statement of such revisions, along with a revised policy.

In addition to the statutory requirements a Council may attach to the grant of a licence such conditions as the Council considers reasonably necessary. However, the 1985 Transport Act specifically states that the Council shall not refuse such a licence for the purpose of limiting the number of vehicles in respect of which such licences are granted by the Council. It should be noted that in the case of hackney carriages the numbers may be limited only if the Council can show there to be no significant unmet demand for this type of vehicle licence.

2. Definitions

The Local Government (Miscellaneous Provisions) Act 1976, as amended, ("the 1976 Act") places on Brighton & Hove City Council (the "Council") as the Licensing Authority (the "Authority") the duty to carry out its licensing functions in respect of Hackney Carriages and private hire vehicles.

This document sets out the policy that the Council will apply when making decisions about new applications and licences currently in force.

This policy document applies to:

- Hackney Carriages; being a public transport vehicle with no more than 8 passenger seats, which is licensed to ply for hire. This means that it may stand at ranks or be hailed in the street by members of the public
- Private hire vehicles: licensed as a taxi to carry no more than 8 passengers but must be booked in advance by customers through an operator and may not ply for hire in the street.
- Private hire operators

In undertaking its licensing function, the Council will have particular regard for:

- Town Police Clauses Act 1847 and 1889
- Local Government (Miscellaneous Provisions) Act 1976
- Transport Act 1985 and 2000
- Crime and Disorder Act 1998
- Environmental Protection Act 1990
- Disability Discrimination Act 1995
- Equality Act 2010
- Road Traffic Acts
- Health Act 2006
- Human Rights Act 1998

The Council will also have regard to other strategies, policies and guidance in its decision making. The Council will also have regard to wider considerations affecting visitors, employers and residents. These include: the availability of Hackney Carriage and Private Hire transport at all times; public nuisance; pollution; crime; and the capacity of the trade to cope with customer demand, particularly at night. The Council will also follow the principles laid out in the statutory Regulator's Code and any recommendations from the Better Regulation Delivery Office.

3. Licensing objectives

The Council will adopt and carry out its Hackney Carriage and private hire licensing functions with a view to promoting the following licensing objectives.

- The prevention of crime and disorder, safeguarding of children & the vulnerable and the protection of the public.
- The safety and health of the public and drivers.
- Vehicle safety, comfort and access.
- Encouraging environmental sustainability.

In promoting these licensing objectives, the council will expect to see licence holders and applicants continuously demonstrate that they can meet or exceed specifications set by the council in the four licensing objectives and will be taken into account by the Council when making decisions. It is recognised that the

licensing function is only one means of securing the delivery of these objectives. The Council will therefore continue to work in partnership with the industry, its neighbouring authorities, the Police, local businesses and local people towards the promotion of the objectives.

3.1 The prevention of crime and disorder, safeguarding of children & the vulnerable and the protection of the public

We cannot escape the consequences of child sexual exploitation. There have been too many cases of this having happened involving a small minority of drivers for it to be anything other than a primary responsibility of the licencing authority.

Whether it is a standalone issue or as here under the wider protection of children and prevention of crime, the duty to protect children from child sexual exploitation is undeniable and of paramount consideration.

What this will mean in a practical sense is that where there is even a suggestion of this happening, it will be treated as major investigation on behalf of the licencing authority. This may mean that enforcement action is taken, even where the evidence has not been tested in any other arena and provided it comes above more than mere rumour or innuendo, will in most cases lead to prevention of the licenced person from driving.

We recognise that the majority of drivers and operators will be equally alarmed that this has happened within their profession and we welcome the co-operation we are seeing from them in terms of reporting concerns that they have. Contact details and reporting processes have been circulated and we would ask that all drivers and operators report their concerns in the knowledge that even one piece of information may well be the key to preventing or ceasing abuse of children.

The duty does not end with children but applies with equal significance to vulnerable adults.

The following are vitally important functions of the authority:

- The prevention of crime and disorder.
- Safeguarding of children.
- Safeguarding of vulnerable adults.
- Protection of the Public.

The last covers a wide range of duties, from vehicle safety to safe driving. Protection of the public must be taken in its widest context and so issues such as domestic violence and other inter family abuse are factors which are being

considered as part of this duty. These problems while seemingly not of relevance to a fee paying public, does demonstrate on the part of the perpetrator an inability to control behaviour appropriately. Whether violence is directed against an adult or child it is a demonstrable loss of control. Where children and vulnerable adults are concerned it is clearly a safeguarding issue.

Other issues of relevance:

- Operating rules, conditions and disciplinary procedures.
- Vetting, qualification, training and monitoring licences. This is of particular importance. This will include consideration of a range of factors, such as cautions, convictions, other Court orders made to control behaviour and even where appropriate looking at somebodies social media profile. We will also make checks with colleagues in other local authority teams notably both child and adult social services.
- Omitting to work with the Police and the licencing authority.

The correct test as set out in the legislation is whether the driver is a fit and proper person. An alternate view could be as follows:

Would you allow your son or daughter, spouse or partner, mother or father grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?

We also note a further test of "Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes.

These tests provide the outline for the matters to be taken into account when deciding upon the suitability of a driver. Where it comes to the question of child sexual exploitation, then due to the damage caused the balance will always be in favour of child (and vulnerable adult) protection and every decision will be made with the safety of the vulnerable foremost in the decision makers mind. While every case will be decided on its own merits, the normal practice will be to be protective of people potentially at risk

3.2 The safety and health of the public and drivers

This builds upon the factors above, but widens it out to include other issues of concern to the public.

- While the main role of the authority is to keep the public safe, we are also concerned about ensuring drivers are as safe as possible.

- Driver training qualification and performance, will all be looked at and reviewed. We welcome an ongoing dialogue with the drivers and operators to provide the best service we can – we have some of the most highly qualified drivers in the Country which we are proud of and hope to build on.
- Knowledge of the city.
- Health and fitness to fulfil the role, including regular health checks.
- Working between the groups on crime prevention measures.
- Measures to prevent noise, odour and light nuisance from Hackney Carriage and Private Hire activities.
- Vehicle specifications
- Safety at ranks for drivers and passengers.

3.3 Vehicle safety, comfort and access

- Standards of vehicle comfort and appearance.
- Space standards for vehicles.
- Location of ranks.
- Use of ranks.
- Provision of disabled facilities.
- Number of vehicles available.
- Provision for the aged and the young.
- Provision of safe and comfortable premises for customers to use.

3.4 Encouraging environmental sustainability

Working with stakeholders in the trade in finding methods of reducing vehicle emissions and not permitting licences for vehicles that are unable to comply with Euro Technology requirements

4. Code of Conduct When Working with Vulnerable Passengers

A vulnerable passenger is a passenger whose age or disability means that they are more susceptible to harm than a typical passenger. This may be a child, an elderly person or somebody with learning difficulties for example.

This code of conduct aims to promote good safeguarding practice for drivers and staff working with vulnerable passengers in the taxi or private hire trade. The following safeguarding principles should be embedded into driver working practice:

- Drivers should carry photo ID at all times, and wear it in accordance with the conditions of licence.
- The driver/operator must confirm that appropriate provision has been

made for the vulnerable person prior to accepting the booking or commencing the journey. This does not necessarily mean that the driver / operator is responsible for the provision of appropriate measures, however they should check that they are in place.

- When making a journey with vulnerable passengers, photo-identification should be produced to the carer responsible for the vulnerable person. If necessary, you should obtain a record of the carer's contact details if there is no chaperone.
- If a vulnerable passenger is refused service a responsible person should be informed so that alternative arrangements can be made. For example, this situation may arise if the customer has an assistance dog and the driver has a medical exemption granted by the council.
- Always ask if a vulnerable passenger needs help, do not assume.
- Drivers should remain professional at all times and should not:
 - Touch a vulnerable person inappropriately
 - Make offensive or inappropriate comments (such as the use of swearing or sexualized or discriminatory language)
 - Behave in a way that may make a vulnerable passenger feel intimidated or threatened
 - Attempt to misuse personal details obtained via the business about a vulnerable person
- A log should be maintained by drivers when a service has been provided to a vulnerable passenger including the details of any incidents occurring / actions taken or refusals of service.
- If you are concerned about the safety, welfare or behavior of a vulnerable person, you should report this to the police by telephoning 101 (or in appropriate cases by calling 999)
- If you are concerned about someone else's conduct, you should report your concerns to the council's licensing department (01273 294429), The Police (101) or Crimestoppers (0800555111).

5. Hackney Carriage and Private Hire - Safeguarding children and vulnerable people, Human Trafficking and Child Sexual Exploitation

Everyone is becoming aware of the well-publicised issues relating to Child Sexual Exploitation and Human Trafficking that have occurred throughout the country. These are abhorrent crimes, and the Licensing Authority has a duty to assist the Taxi and Private Hire Trade and the public in tackling this issue, and to protect those who are vulnerable and / or being exploited. We need the help of taxi and private hire drivers and operators to identify those who commit these crimes, and protect those who most need our help. Here is some information devoted to helping you as a license holder or applicant to be aware of those who may be vulnerable or being exploited.

However, there is always more that can be done by everyone to help promote a better understanding of this subject, and we hope that this information will assist you in being able to identify those at risk, how to protect those who may be

vulnerable or being exploited, how to ensure that your actions do not negatively contribute to such persons becoming victims, and to whom to report your concerns.

5.1 What You Can Do To Help Those At Risk

By following the Good Safeguarding Practices below according to your business model you will be helping to protect those who are vulnerable and / or being exploited. We need your help to bring to justice those who commit these crimes.

- If your business allows check at the point of booking if there are any vulnerability issues. This will allow you to prepare for the journey in the right way.
- Ask the person booking if an escort for the vulnerable passenger is required and if they are providing one.
- If necessary let your head office know (or keep a record) of the time you picked up the vulnerable passenger, the time and place you dropped them off and especially if there was any incident or anything significant occurred on the journey.
- If you refuse to take a passenger inform someone that you can't take them so they can deal with the person another way (e.g. hospital staff; family; security staff if a club/pub)
- Record incidents and refusals
- Be professional - try not to be over-friendly or talk about personal or intimate issues, don't exchange personal contact information such as passenger's telephone numbers or Facebook address.
- Avoid swearing or aggressive behaviour.
- Do not touch passengers.
- Never accept an offer of a sexual favour instead of payment.
- Make sure you are wearing ID, (your licence badge)
- Sit lone passengers in the back unless otherwise agreed.
- Ask or explain to passengers if using a centralised locking system - don't just put it on without an explanation.
- DON'T ASSUME that your passenger wants help - ALWAYS ASK
- Never follow a passenger into the house unless previously agreed / properly authorised
- ASK before making a journey shorter by going off the main roads/using isolated country roads, explain and give the passenger (or person booking) a choice of route.
- NEVER set off with a passenger without a specific destination address unless you are sure it is safe to do so
- NEVER double up passengers on a journey – even if passengers are travelling in a similar direction, they may pose a threat or risk to the other passenger
- If you think the passenger is afraid, offer to ring head office to tell them you have a passenger named XXXX with you and give the address and

- approximate time of arrival; this reassures the person that they are safe and someone is monitoring the trip.
- As with all professions if you are concerned about another driver's conduct report your concerns to your manager or the relevant agency.
 - Organisations should have a lead member of staff for safeguarding; this person should be able to advise colleagues about how to manage vulnerable passengers and any incidents arising.
 - ALWAYS KEEP A RECORD either in your cab or at head office, of ANY incidents or situations you were not happy with – the record should include a description of what happened and what you did to keep yourself and your passenger safe.

5.2 Who To Contact

If you think you may be carrying someone who is vulnerable and / or the victim of exploitation: Phone 999: Call the Police emergency number if you believe that the risk is imminent / assault happened or likely to. Alternatively record and report concerns to the Police by calling 101, Crimestoppers 0800555111 or Anonymously Online

<https://crimestoppers-uk.org/give-information/give-information-online/>

The safeguarding services if a child or vulnerable adult is involved: Multi-Agency Safeguarding Hub (MASH) on 01273 290400 or MASH@brighton-hove.gcsx.gov.uk.

Part B

6. Advice to Drivers

Within the Conditions of the grant of your licence you are responsible for various items, some of which may be checked by various Officers on demand.

These include;

Only a Licensed driver may drive a licensed vehicle at any time.

Do not use anyone to tout for you.

Do not tout for hire.

Check your operator is licensed.

Never stop for flag down (Private Hire vehicle only).

Keep vehicle clean inside and out.

Ensure vehicle complies with law.

Control language on radio.

Ensure vehicle is insured. Report any convictions.

Report any change of address.

Always check destination.

Report any found property.

Use your radio call sign properly.

Assist with any request from Sussex Police.

Attend at Licensing Office if called.
Keep Records of Bookings.
Ensure vehicle signs correct.
Keep copy of valid insurance
Undertake Medical if required.
Produce any Licence if required.
Only drive licensed vehicles.
Wear I.D. badge at all times.
Display I.D. badge in vehicle.
Ensure children wear seat belts and advise adults.
Comply with Disclosure and Barring Service requirements.
Never exceed number of passengers on Plate regardless of age.
Check car after every journey for lost property.
Do not accept immediate hiring for private hire.
Report any change of Medical Fitness and attend for a medical if required.
Give reasonable assistance with luggage.
Produce any documents required by operator for checking.
Driver, Vehicle and Operator MUST all be licensed in 'Brighton & Hove.

Remember;

Passengers hire the vehicle with the services of the driver and he should;

- a) Not use the horn to make passengers aware of his arrival.
- b) Not cause distress, by loud radio use, to passengers or others.

Important.

The courts have clearly stated that a driver must only drive for an operator licensed with that same district as their vehicle and driver licence, so all three licences, (driver, vehicle and operator) must be issued by the same council. Failure to comply with certain items above can lead to arrest and a fine of up to £2,500. The above list is for advice only and is not exhaustive.

7. Duties to assist passengers in wheelchairs.

Sections 165, 166 and 167 of the Equality Act 2010 deal with the imposition of duties on the drivers of wheelchair accessible taxis and private hire vehicles to assist passengers who use wheelchairs. The duties which had been contained in the Disability Discrimination Act 1995 had never been brought into force so when the duties are actually brought into force – at a later date - it will constitute a substantive change in the law.

7.1 The duties - Section 165 places duties on drivers of designated wheelchair accessible taxis and private hire vehicles. Designated vehicles are those listed by the licensing authority under section 167 (see Designated Vehicles (above)).

The duties are:

- to carry the passenger while in the wheelchair;
- not to make any additional charge for doing so;
- if the passenger chooses to sit in a passenger seat to carry the wheelchair;
- to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
- to give the passenger such mobility assistance as is reasonably required.

NB Mobility assistance is assistance -

- To enable the passenger to get into or out of the vehicle
- If the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair
- To load the passenger's luggage into or out of the vehicle
- If the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.

7.2 Exemptions from the duties - Section 166 allows licensing authorities to exempt drivers from the duties to assist passengers in wheelchairs if they are satisfied that it is appropriate to do so on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for him or her to comply with the duties.

8. Advice to drivers when carrying disabled passengers

Brighton and Hove City Council are subject to duties under the Equalities Act 2010 which includes the duties to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.

In relation to the Hackney and Private Hire as the licensing authority we are wishing to ensure that the needs and requirements of those with a disability are being acknowledged and met.

Primary issues for the Council to take note of are:

- Mobility – this is being addressed by the introduction of wheelchair accessible cabs. It is noted that certain service users who may have mobility issues still prefer old style saloon cars. The trade should be able to respond as appropriate where a particular type is requested.
- Visual impairment - drivers to be aware that greater assistance will be required. As per the detail already included in this document.
- Hearing impaired – note should be taken that those with hearing difficulties should wherever possible be provided with a text service.
- Awareness of those with mental health issues.

- Awareness of those with learning disabilities.
- Training for drivers on disability awareness for instance not assuming that because someone is slurring speech that they are drunk as opposed to having neurological disorder.

Taxis are an important, and sometimes the only means of transportation for many disabled people

It is important to remember that disabilities are not always visible. It may not be immediately obvious to you that the person has a disability or special requirements. Physical access for people who use wheelchairs is obviously important but an accessible vehicle is only part of the answer. Your attitude and understanding of the problems that may be faced by disabled people is very important.

Vehicles, streets, the built environment and your operating practices, can all provide obstacles for disabled people. Never make assumptions, always ask what help (if any) a passenger may need from you. You must ensure that you are familiar with any access and safety equipment in your vehicle which will be inspected periodically. Be ready to help, but do not insist on helping. If you are asked to help, listen carefully to the information given, or ask what is the best way to assist.

The following is some basic advice to assist you in giving the best service to your passenger.

8.1 Wheelchair Users

If a passenger is a wheelchair user, you should:

- Leave the passenger in a safe and convenient place which enables them to move away independently.
- Make sure that the brakes of the wheelchair are on during the journey.
- Secure the wheelchair with clamps or straps and suggest that the passenger uses the seat belt provided. You may also need to assist them with the seat belt.
- Avoid sudden braking or acceleration. Be careful when going over speed humps etc.
- Ensure that they travel forwards or backwards and never travel sideways in the vehicle.

Consider asking the passenger to move to a safer or more accessible pick-up/drop-off point nearby.

These are important safety rules that apply to all wheelchair users whether manual or powered wheelchairs and you will need to carry out your own risk

assessment to decide if it is safe to load and unload the passenger safely and whether you can do it on your own or need assistance from another driver. If you do need assistance the passenger will need to pay for both vehicles.

If you drive a saloon car, you may still be able to take wheelchair users provided that the passenger is able and willing to transfer. In those circumstances, you should ask the passenger what help they require, listen to their response, and act only as advised. Take care when loading the wheelchair into the boot. Wheelchairs can be expensive to repair or replace and without it the passenger may be totally immobile. Some wheelchairs are collapsible and some parts, such as handles and plates may come away easily, so care needs to be taken when folding or loading collapsible wheelchairs.

8.2 Ambulant Disabled people

Whilst some disabled people may use crutches or sticks, many who have mobility difficulties, will not. People, with arthritis in particular, may be unable to walk using a stick or crutches due to painful upper limbs. If the passenger appears to have walking difficulties, or is frail or elderly, always:

- Offer to fit the additional step if there is one – this reduces the first step and makes it easier to get into vehicles. If in an MPV, ask whether pulling up as close as possible to the kerb would be helpful. For saloon cars this may not be useful because it increases the height the passenger has to drop down to the seat and may make it more difficult for them to get out of the seat at the end of the journey.
- If you have used a swivel seat, (as in purpose built London type hackney carriage vehicles) make sure it is locked back in position once inside the vehicle.

8.3 Blind or partially sighted Passengers

If a passenger is blind or partially sighted, ask what assistance they require and always:

- Look out for the “TAXI” sign which may be held out by some visually impaired people in order to hail a cab.
- If you are knowingly collecting a blind or partially sighted passenger from a pre-booked location, knock at the door on arrival – do not remain in the cab and hoot your horn.
- If your customer would like to be accompanied to or from the entrance of a building, offer them your arm (gripping you just above the elbow will enable them to be guided more easily).
- Tell your passenger whether they are entering a saloon car or purpose-built cab.
- Demonstrate which way the doors open where appropriate.

- If possible, place a visually impaired person's hand on the open door and indicate the position of the roof.
- Make sure the passenger(s) know which way the vehicle is facing.
- Make sure the passenger(s) are seated and have secured the seat belt (where applicable) before you move off. They may require assistance with the belt.
- Tell passenger(s) if you are taking a different route from that which they might expect, or if there is a hold-up or diversion.
- Tell passenger(s) the fare and count out the change.
- Set the passenger(s) down in a safe place and make sure they know where they are going.
- Remember guide dogs and other assistance dogs are trained to remain on the floor of a vehicle and will not abuse your vehicle. Refusal to carry an assistance dog without a medical exception is an offence under the Equality Act and is in contravention of the conditions of your licence. In saloon cars, there is more room for the dog on the floor in the front of the vehicle.

8.4 Hearing Impaired Passengers

If a passenger's hearing is impaired, always:

- Look at them when you are speaking. Speak clearly, but do not shout and do not use your hands to gesticulate in front of your face.
- Have a pad of paper and pen handy, as it is sometimes easier to communicate in writing.
- Make sure that they are aware that you have understood their instructions and that you know where the passenger is going.

8.5 People with learning disabilities

In Brighton & Hove there is a scheme called Thumbs Up which includes ten tips for good customer service to people with learning disabilities.

This is what you should be doing:

- Listen to what the person is saying
- Give the person extra time
- Use plain English that avoids jargon
- Use pictures as well as writing
- If the person has a carer, talk to the person rather than the carer
- If the person asks for help, show them as well as tell them
- Not ignore bullying – Do your best to help if you think someone is being bullied

- Offer good customer services – If you notice someone may need extra help, offer it. For example with shopping bags and making sure the person is safely inside their destination will always be appreciated. People with learning disabilities may also require assistance understanding money
- Offer help with access if we think someone needs it
- Do your best to make your service accessible to people

8.6 Maintenance of Vehicles

Keep door handles, locks and hinges well lubricated. This reduces the amount of physical (often painful) effort required to operate them.

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Guidelines relating to the relevance of Cautions and Convictions, Criminal Behavioral Orders, Injunctions to prevent nuisance and annoyance, County Court and High Court Judgments and Fixed Penalty Notices when determining applications for Hackney Carriage and Private Hire Licences.

9. The council is empowered in law to check for the existence and content of any criminal record held in respect of an applicant for a hackney carriage or private hire vehicle, driver or operator licence so when submitting an application for such a licence an applicant is required to declare all convictions (whether or not spent), Cautions, Conditional Cautions, Community Resolutions, Criminal Behaviour Orders, County Court and High Court Injunctions, including Injunctions to prevent nuisance and annoyance or Fixed Penalty Notices (personally or business related), they have recorded against them, and any pending proceedings.

Note: Failing to disclose cautions / convictions or any of the above will be regarded as a serious breach of the terms of the license and action will normally take place. An applicant's failure to disclose any of the above will be taken into consideration when assessing their propriety to become a licensed driver.

As the idea of what "Fit and Proper" means, has not been defined, it will be at the officers discretion to decide what is relevant information and from what source it can be obtained. To be relevant, evidence has to be more than mere suspicion or innuendo. Public protection is an important function and as such all information that may mean that a person or persons are not fit and proper will be considered.

Where there are aggravating factors such as hate crime (homophobia; racism and so on), this will be taken into account.

In making its decision the council will consider the nature of the information, its own guidelines on the relevance of Cautions, Convictions, Conditional Cautions, Community Resolutions Anti-Social Behaviour Orders, Criminal Behaviour Orders, Injunctions to prevent nuisance and annoyance, County Court and High Court Judgments and Fixed Penalty Notices (personally or business related), in the licensing process and any other factors which may be relevant. These guidelines will also be taken into account in relation to renewal applications, and decisions to suspend, revoke or not to renew a licence.

- 9.1 Each case will be decided on its own merits with the overriding objective of protecting the public.
- 9.2 A person with a conviction for a crime need not be permanently barred from obtaining a licence but should be expected to remain free of any conviction for, at least 3 to 5 years, before any application is entertained. The nature of the offence will be taken in to account when deciding on the period that they should be offence free. However, persons with

convictions for sexual offences of any nature or any offences related to children, vulnerable adults or other serious crime will not normally be issued with a licence. Persons subject to pending proceedings for such offences will be properly investigated and if appropriate will have any licence suspended pending the outcome of the hearing of the case at court. If they are subsequently convicted then the matter will be reviewed again.

- 9.3** Some discretion may be appropriate if the serious offence is historic, isolated and there are exceptional mitigating circumstances. However, as stated above, the overriding consideration must be the protection of the public.
- 9.4** Hackney carriage and private hire drivers are classed as 'regulated occupations' by the Rehabilitation of Offenders Act 1974 (exemption order as amended) which means that the Rehabilitation of Offenders Act 1974 does not apply to them (and thus their convictions are never spent). Furthermore, in respect of applications or renewals for Hackney Carriage Proprietor or Private Hire Operators Licences, the Council as a judicial authority under the Rehabilitation of Offenders Act 1974 may take into account spent convictions involving serious offences, (e.g. Death by Dangerous Driving, Drug Offences, Offences of Violence, Sexual offences, Dishonesty Offences or offences of an habitual nature).
- 9.5** Cautions require an admission of guilt and are never spent. The Council must therefore treat a caution as an admission of guilt and cannot be required to go behind the decision of the police or enforcing body. The age and gravity of the offence for which the caution has been accepted be taken into account as for convictions.
- 9.6** Fixed penalty notices and Community Resolutions are now used in relation to a range of offences and they will be taken into consideration depending upon their number, the nature of the offence and all the circumstances including the applicant's lack of compliance.
- 9.7** Civil actions including injunctions are also a relevant factor where it has an impact on the driver being fit and proper. These will be assessed on a case by case basis.

9.8 Note: Suspension and Revocation

The authority has the power to use its discretion to suspend or revoke or refuse to renew a drivers' licence depending on the seriousness of any established misbehaviour. Since the 2012 case of Singh v Cardiff City Council it has been ruled that an Authority cannot impose an interim suspension so the decision to suspend, revoke or refuse to renew must be a final one made after a considered determination of all the facts in a particular case. This will include the driver having an opportunity to put their case in person to an officer in the spirit of natural justice.

Fresh case law and or government guidance may change this position.

9.9 Immediate Suspension

The Council in determining its powers of immediate suspension or immediate revocation, will consider each case according to its merits. Where, after investigation, it is satisfied that the interests of public safety require such a course of action or an offence is committed of such a serious nature as to warrant such action, the decision will normally be to suspend or revoke with immediate effect. For the purpose of these guidelines, cautions will be treated as convictions.

9.10 Police Bail

Hackney Carriage and Private Hire Drivers are expected to adhere to this Policy's definition of "fit & proper" person. A person who already holds a licence with the Authority, if arrested for an alleged offence, and subsequently released by the Police on Bail, depending upon the nature of the alleged offence, can expect action to be a possibility. Where Suspension is put in place, normally the suspension shall remain in force until (the licence expires or) such time as the case is resolved by either the Police or by the Courts. The matter will then be reviewed.

9.11 Police Recommendation

Hackney Carriage and Private Hire drivers maintain close contact with the public, often carrying unaccompanied and vulnerable passengers, and are therefore expected to adhere to this Policy's definition of a "fit and proper" person. Any person, who in the view of the Police Officer represents a threat to the safety and well-being of the public, should expect action by the Director of Public Health. Any suspension shall remain in force until (the licence expires or) such time as the case is resolved by either the Police or by the Courts

9.12 Offences or allegations involving an element of sexual exploitation or violence against children or vulnerable persons

Except in the most exceptional of cases an existing driver or applicant that is charged, cautioned or convicted of offences that fall into the above category will have his/her licence suspended, revoked, refused or not renewed

9.13 Child Protection and Safeguarding

When considering whether an applicant or driver is fit and proper and moreover what risk the driver presents to others, the authority will take into consideration all information that represents more than gossip, speculation and unsubstantiated innuendo.

In making its enquiries the authority will rely on all relevant information provided by other departments of the council. This will include information provided by Children's Services and the Local Authority Designated Officer (LADO) responsible for child protection. Issues raised on any DBS check will also be pursued and may be relevant evidence even where no charge follows. Enquiries will be made of the Police.

Where the authority has reasonable cause for concern based on the information from these and other relevant sources it will act appropriately to safeguard children and young persons. As the prevention of child sexual abuse is such an important issue, there will be a presumption in favour of protective measures. This also extends to other vulnerable groups who may be at risk of exploitation such as vulnerable adults. This may mean that based on this information an applicant will not be allowed to proceed or an existing driver may have his/her licence suspended, revoked or not renewed.

9.14 Drugs

An applicant or existing driver with a caution / conviction for a drug related offence should normally be required to show a period of at least three years free of any caution / convictions before any application is entertained or a minimum of three years after detoxification treatment if applicant was drug dependent. Where there is evidence of prohibited drug use the applicant or existing driver will be expected to produce medical evidence to confirm to the Council's satisfaction that they are free of illegal substances. The Council reserves the option to seek its own expert medical evidence where necessary.

9.15 Violence

As hackney carriage and private hire drivers maintain close contact with the public, a grave view will be taken with applicants who have cautions / convictions for grievous bodily harm, wounding, assault causing ABH, assault PC or common assault. Dependent on the nature of the assault a minimum of three years free of cautions / convictions should be shown before an application is entertained and even then a strict warning will be administered. An existing licence holder could expect his licence to be suspended or revoked if convicted of these offences. The same applies where evidence of violent behaviour has been adduced before the civil courts.

9.16 Criminal Damage

As this offence covers a wide range of behaviours each case will be judged on its own merits. A serious view will be taken if the offence involves deliberate fire setting, the offence was committed in a group, the damage caused was of high value or the offence had a clear racial/ religious or homophobic motivation. An applicant with this type of more serious conviction/caution should normally be

required to show a period of at least three years free of any caution / convictions before any application is entertained. Existing drivers convicted or cautioned for these types of serious criminal damage offences could normally expect to have their licence revoked.

9.17 Dishonesty

Licence holders are expected to be person of trust. The widespread practice of deliveries for companies, taking children to school and families on holiday shows this trust. It is easy for dishonest drivers to defraud foreign visitors when giving change, or other customers by taking them by other than the shortest route. Lost property can be kept by unscrupulous drivers. For these reasons a serious view will be taken of any cautions / convictions involving dishonesty. In general, a period of at least three years free of any cautions / convictions will be required before entertaining an application for a hackney carriage or private hire drivers licence by the Council. Any existing driver convicted of offences involving dishonesty may expect any licence held to be suspended or revoked and a possible ban on holding a hackney carriage or private hire driver's licence for three year period at minimum after conviction. The same applies where evidence of dishonest behaviour is adduced before the civil courts.

9.18 Discrimination / Hate Offences

An applicant with a caution / conviction or legal findings against them in the civil courts for a discrimination related offence should be required to show a period of at least three years free of any caution / convictions before any application is entertained.

9.19 Minor Road Traffic Offences

Isolated convictions or fixed penalty notices for minor traffic offences should not prevent a person from proceeding with an application. Any new applicant must have held a full drivers licence as issued by DVLA for a period of twelve months without any period of suspension during those twelve months. Licence holders convicted during the period of licence of such an offence may be warned as to future conduct, and that any disqualification from holding a full DVLA licence will lead to revocation of any hackney carriage or private hire licence held with the Council.

9.20 Major Road Traffic Offences

Where there is an isolated historic conviction for reckless driving, dangerous driving or driving without due care and attention and similar offences, these will merit for new applicants at least a warning as to future driving and advice on the standards expected of hackney carriage and private hire drivers. However, for applicants with more serious offences such as convictions for causing death by

dangerous/careless driving a licence will not normally be granted. Existing drivers can expect their licence to be revoked and no further application will normally be considered until a period of at least three years free from convictions has elapsed.

9.21 Drunkenness.

9.21.1 with a motor vehicle.

A serious view will be taken of cautions / convictions for driving or being in charge of a vehicle whilst under the influence of drink or failing to provide an evidential specimen. An isolated and historic incident will not necessarily debar an applicant provided they have been at least three years free of cautions / convictions after the restoration of their full DVLA licence but strict warnings will be given as to future behaviour. More than one caution / conviction for these offences will raise grave doubts as to an applicant's fitness to hold a hackney carriage or private hire drivers' licence. At least one year should elapse (after the restoration of the full DVLA driving licence), before an applicant is considered for a hackney carriage or private hire driver's licence. If the applicant is found to be alcohol dependent a minimum period of five years should elapse after treatment is completed before a licence application is considered.

9.21.2 A driver found guilty of driving passengers for hire and reward whilst under the influence of alcohol will normally have his hackney carriage or private hire drivers licence revoked immediately and be banned from holding a hackney carriage or private hire drivers licence with the Council for a minimum period of three years after the restoration of their full DVLA licence

9.21.3 Drunk but not in a motor vehicle.

An isolated caution / conviction for drunkenness need not debar an applicant from obtaining a licence, however, a number of cautions / convictions for drunkenness could indicate alcohol dependency necessitating a medical examination, (see 9.14. above).

9.22 Insurance Offences

9.22.1 with a motor vehicle.

A serious view will be taken of any caution / convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily debar an applicant provided he has been three years free of any caution / conviction, but strict warning will be given as to future behaviour. More than one caution / conviction for these offences will raise grave doubts as to an applicant's fitness to hold a hackney carriage or private hire licence.

9.22.2 A driver found guilty of driving passengers for hire and reward whilst without insurance will normally have his hackney carriage or private hire driver's licence revoked immediately and be banned from holding a

hackney carriage or private hire driver's licence with the Council for a minimum of five years.

- 9.22.3** Any applicant with three insurance offences or more will not normally be considered fit and proper to hold a hackney carriage or private hire licence with the Council.

9.23 Breaches of Licensing Conditions, other Local Authority Offences and Fire Authority Offences

Isolated convictions / cautions for breach of licensing conditions or other local authority offences should not prevent a person from proceeding with an application but these offences may be considered when determining if an applicant should be granted a licence. Licence holders committing offences during the period of licence may be warned as to future conduct and may lead to revocation of any hackney carriage or private hire licence held with the Council.

9.24 Criminal Behaviour Orders / Injunctions or any other order under the Anti-Social Behaviour and Policing Act 2014

Criminal Behaviour Orders / Injunctions to prevent nuisance and annoyance during their current term or within three years of their final date should not prevent any person from proceeding with an application, but it will be considered, taking into account all the circumstances, and severity of the behaviour, when determining if an applicant should be granted a licence.

9.25 County/High Court Injunctions

Any Court injunction and / or order relating to anti-social behaviour especially those for harassment or violence (including domestic violence) within the last three years should not prevent any applicant from proceeding with an application, but will be considered when determining if an applicant should be granted a licence, taking into consideration the nature and severity of the behaviour and all relevant circumstances.

9.26 Scanners

Anyone convicted of the use of a radio scanner will normally be banned from holding any licence for a minimum of a five-year period.

9.27 Notes

Any information disclosed to the Council will be kept in strict confidence and will only be taken into account in relation to the application and will be retained no longer than necessary. It is an offence for any person knowingly or recklessly to make a false statement or to omit any material particular in giving information required by the application for a licence, punishable by up to seven years

imprisonment upon conviction.

10. Procedure for Licensing Hackney Carriage and Private Hire Drivers.

This section relates specifically to driver conduct.

10.1 Any driver must be a fit and proper person. It is not possible to give a precise definition of what this is, but at its heart is keeping passengers safe and free from risk. It is the responsibility of the applicant to satisfy the council that they are fit and proper and that they are safe and suitable to hold a licence.

The Council must ensure that applicants / licence holders are and remain fit and proper to hold a licence. In assessing whether someone may be fit and proper the Council will take into account the following, and not exclusively, information in to account:

- Criminality
- Good Character
- Human Rights
- Period of holding a driver's licence
- Number of endorsed driving penalty points
- Right to work
- Medical fitness
- Enhanced driver Competence
- Geographical knowledge of the area
- Professional Qualifications (Btec/NVQ)
- Disability Awareness
- Spoken English

In addition the Council will also consider further information sources such as the Police (including abduction notices), Children and Adult Safeguarding Boards and other statutory agencies.

Brighton & Hove City Council condemns all incidents of harassment whether racist, religiously motivated, homophobic, transphobic or due to gender or disability, whether perpetrated by Council staff, employees, agents, third parties or those involved in providing licensed taxi service whether hackney or private hire. If incidents are reported to the Council they will be investigated and where warranted enforcement action taken against the perpetrator. It is clear under the law that if the matter was to go to Court on appeal then these allegations can and should be put before the Court to help it decide whether the driver or operator is a fit and proper person.

10.2 Criminal Cautions / Convictions

As the correct test is that a driver must be a fit and proper person – we take into

account a range of issues which might bring this in to question. The rehabilitation of offenders provisions do not always apply and spent convictions can be taken into account if they are relevant and serious. Cautions although generally perceived be lower level will for the purposes of a driver license be relevant and taken in to account.

Failing to disclose cautions convictions or any of the issues below will be regarded as a serious breach of the terms of the license and action will normally take place. The list of issues of concern are:

- Criminal convictions.
- Cautions.
- Community resolutions.
- Anti-social behavior orders
- Criminal Behavioral Orders
- County Court injunctions relating to behavior.
- High Court injunctions relating to behavior.
- Fixed penalty notices (personally or business related).
- Motoring convictions and penalty notices.

In all cases the licence holder must within 3 days disclose to the Council the details of any of the above imposed upon him or her or where their drivers are using their hackney carriage the details of their driver. This covers the period they hold a licence of any kind. In the case of a new application this covers the period leading up to the application.

10.3 Hiding information / evidence

Any attempt to hide information - such as turning off CCTV during an incident, will be regarded as a serious matter and the driver will have to establish a valid reason why this happened. The Council can and will draw an adverse inference from any such action.

10.4. Making Application

All applicants are advised to avoid errors in completing an application and they collect the papers required from the Hackney Carriage Office, at that time they will receive an explanation as to the requirements.

Prior to issue of a licence the following will be required;

10.5 All applicants must be able to provide a full 5 years UK address history for their Disclosure and Barring Check (DBS). Applicants who have resided outside the UK for all or any part of the 5 years, prior to the date of application will be required to submit official written confirmation of their good character, from the country(s) in which they have lived during that 5 year period. This information will need to be translated into English if

- necessary and verified as accurate and reliable by the country(s) corresponding Embassy(s) in London.
- 10.6** The Disclosure and Barring Service (DBS) form must be completed by the driver and checked and forwarded to the DBS by the Hackney Carriage Office. The driver will also have to provide a copy of the DBS Certificate to the Authorised Officer on issue. In the case of renewals the Certificate must be less than 3 years old from date of issue unless the driver has signed up to the online checking service. Failure to provide a current certificate will lead to delay in any new application.
 - 10.7** Applicants will be required to produce a birth certificate and / or passport to show date and place of birth, on initial application only
 - 10.8** The applicant will be required to produce a full current driving licence for the correct group as required for driving a hackney carriage or private hire vehicle as issued by the DVLA and must have been held for at least 3 years. This includes the 2 year probationary DVLA driving licence period and 1 year post probationary period. EEA licences must be converted to a UK DVLA licence before application is made.
 - 10.9** The application form must be completed and all questions must be fully answered.
 - 10.10** References will be written for from the names provided. These must be persons of some standing in the community, and should normally include your current employer. A future employer, relations or friends are not acceptable. References are only required on initial application.
 - 10.11** A colour passport photograph must be provided for initial applications (one on subsequent applications to renew a current licence); these are used for positive identification on references, for the issue of I.D. badges to successful applicants and for office records.
 - 10.12** A medical certificate in the form supplied by the Council, from the applicants own general medical practitioner on initial application, one at age 45, 50, 55, 60, 65 and annually thereafter, or at any time as required by the Council. All medicals are to be to the standard required for vocational licences Group 2 as described on the DVLA web site under the heading 'At a glance Guide to the current Medical Standards of Fitness to Drive' and each case will be considered on its own merits.
 - 10.13** All applicants must in addition to the above have passed the BTEC Level 2 Certificate in Introduction to the Role of the professional Taxis and Private Hire Driver (QCF) (or equivalent award as decided by the Director) and have undertaken and passed the Driver & Vehicle Standards Agency (DVSA) Taxi Drivers Test or Private Hire Drivers Test and produce the necessary pass certificate before undertaking a knowledge test.
 - 10.14** From 1st April 2016 drivers of wheelchair accessible vehicles must have passed the Driver & Vehicle Standards Agency (DVSA) taxis wheelchair exercise test or the Catstream Drivers Disability Awareness Training before renewal of licence every 3 years.
 - 10.15** All applicants must have an adequate knowledge of both written and spoken English and must show proof of competency by means of relevant

- certificate/ qualification at the time of submitting application. For example GCSE English Examination Certificate or a ESOL English: Entry Level 2 Certificate from a Language School etc. If officers are not satisfied with the standard of spoken or written English language a further certificate of competency from an English Language School before an application will be considered further.
- 10.16** No licence will be issued unless all information has been supplied. An invoice will be raised on application and must be paid within 30 days or any licence will be revoked.
- 10.17** When all above items are in hand, the applicant will, when ready, be invited to undertake a knowledge test of the area and a routes test. The Route test must be passed within 8 weeks of the first knowledge test. Subject to the applicant achieving a satisfactory standard and the fee being paid then an appropriate licence will be granted and I.D. badges issued.
- 10.18** Anyone failing the knowledge test or routes test will be invited to retake the test at a later date. An additional fee is due for each test undertaken.
- 10.19** The Council reserves the right to require any applicant to provide additional Disclosure and Barring Service forms or full medical forms if they have reason to believe that changes have taken place since the original application.
- 10.20** Any application not completed within 6 months will be considered as null and void and all new information will need to be submitted. No refund of fees paid will be made.
- 10.21** In all cases sight of a passport will be required or other document as required by the Council.

11. Annual re-licensing of drivers

- 11.1** Drivers will be required to comply with those conditions for initial application above in section 10.5 to 10.21 with the exceptions of 10.10, 10.13, 10.15, 10.17, 10.18, and 10.21.
- 11.2** Drivers are required to undergo annual competence training as required by the Director of Public Health and are to produce a Certificate of Professional Competence at renewal.
- 11.3** In cases where a medical condition of the applicant needs to be referred to the Council's Medical Consultant, a licence will not normally be renewed until a satisfactory report is received from the Council's Medical Consultant.
- 11.4** Hackney Carriage and Private Hire Driver Licences are normally issued for a period of three years from the date of commencement of the licence. Licences may be granted for a lesser period depending on the circumstances of an individual case.
- 11.5** All applications for renewal should be made a minimum of three weeks prior to expiry date with all papers required complete at time of application to enable any checks of official records to be made prior to the issue of a

new licence. Note: you are advised to apply for your DBS at least 8 weeks in advance of this.

- 11.6** Any licence not renewed on or before renewal date will be deemed to be a new application and not a renewal of an existing licence other than, where the application is delayed by no more than 3 days and a clear explanation for the delay is provided. Beyond the expiry of 3 days after the renewal date it will only be in exceptional circumstances that the Council will consider the application to renew as anything other than a new application.
Any driver that has failed to renew their licence is not entitled to drive for the period that the renewal application is pending as technically the licence has expired.
- 11.7** Any incomplete applications will be returned to the applicant and not be processed until application is resubmitted with all details and papers as required.
- 11.8** Where an invoice for a licence is not paid the original application will be deemed invalid and the licence revoked.
- 11.9** Any new and existing Brighton & Hove hackney carriage or private hire driver who accrues more than seven penalty points on his or her UK driver's licence within a one year period will be required to undertake and obtain a pass certificate for the hackney carriage / private hire taxi assessment test from the Driver & Vehicle Standards Agency (DVSA) within a period of one year from the date of the last conviction or fixed penalty endorsement before their driver's licence will be renewed.
- 11.10** The Director of Public Health has delegated powers to require at his discretion any Brighton & Hove licensed hackney carriage or private hire driver to undertake and pass the Driver & Vehicle Standards Agency (DVSA) hackney carriage / private hire driver taxi test within a period of one year or shorter period from being required to do so.
- 11.11** Any driver disqualified by a court under the totting up procedure or otherwise will be required to apply as a new applicant following at least one year from restoration of their DVLA licence.

12. Driver Badges

The drivers badge issued by the Council must be worn in such position that it can be clearly seen at all times. The second badge is to be displayed clearly in the vehicle. The badges remain the property of the Council.

13. Complaints

Any driver against whom a complaint is laid will attend at the office of the authorised officer, within one working day to answer such complaint, after having been informed of such requirement to attend.

14. Inspection of driver records

Any driver called for inspection must attend with any documents requested; failure to do so may lead to suspension or revocation of licence.

15. Must be Licensed

Attention is drawn to section 46 of each of the 1847 and 1976 Acts which require ALL drivers of hackney carriage and private hire vehicles to hold an appropriate driver licence, as issued by the Council, and it is an offence which affects the insurance to allow any unlicensed person to drive any licensed vehicle, (see Guidelines to Offences for penalties). In effect only hackney driver licence holders may drive hackney carriages and private hire vehicles may only be driven by private hire driver licence holders.

16. Lapse in Licence

Any lapse in licence will result in any application being treated as a new application and not a renewal, and full application requirements as detailed in Part B will have to be satisfied.

17. Notes

The Council has the power to revoke or suspend licences after convictions for various offences, or failure to comply with the relevant provisions of The Town Police Clauses Act 1847, and The Local Government (Miscellaneous Provisions) Act, 1976, Part II, or any other reasonable cause. Any requirements of legislation which affect the operations carried out under the terms of a licence shall be regarded as if they are conditions of that licence.

The Council in determining its powers of immediate suspension or immediate revocation, will consider each case according to its merits and where it is satisfied that in the interests of public safety require such a course of action; an offence or an alleged offence is committed of such a serious nature as to warrant such action; a medical condition exists that makes it unsafe to continue working the decision will normally be to suspend or revoke with immediate effect.

Part C

Hackney Carriage & Private Hire Driver (Dual) Licence Conditions

Normally drivers that apply for a Hackney Carriage licence will be issued with a Hackney Carriage & Private Hire Driver Dual Licence. If an applicant wishes not to have a dual licence they must put in writing their reasons for not wishing to have a dual licence. Consideration will then be made by the Director of Public Health as to whether a hackney carriage driver licence or a dual licence will be issued.

18. Interpretation.

18.1 In these conditions;

18.1.1 “the Council” means Brighton & Hove City Council.

18.1.2 “the Director of Public Health” means the Director of Public Health (for the time being) of the Council.

18.1.3 “the driver” means the person to whom the Council has granted the Hackney Carriage & Private Hire Drivers Licence to which these conditions are attached.

18.1.4 “Authorised Officer” means the Hackney Carriage Officer, Licensing Enforcement Officer, Out of Hours Regulatory Services Officer and Public Health Licensing Manager, for the time being of the Council.

18.2 Any obligation in these conditions not to do any act or thing shall be deemed to include an obligation not to cause or permit that act or thing to be done.

18.3 Any reference to any statute or subordinate legislation shall be deemed to include a reference to any amendment or re-enactment.

19. Conduct.

19.1 The driver must behave in a civil and orderly manner at all times when carrying out his or her duties, and not act in a manner to a passenger, member of the public or other licence holder that may:

- Cause any person to take offence at their actions
- Cause any person to believe their actions to be inappropriate
- Cause any person to fear for their physical safety
- Cause any person to doubt their integrity
- Bring in to disrepute the integrity of the Council for having issued a licence to such person

19.2 The Driver when asked by a passenger, indicate the route they are going to take and if requested take the preferred route of the customer.

19.3 The driver must take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.

19.4 The driver shall not smoke tobacco or like substance in the vehicle at any time as provided by the Health Act 2006.

19.5 The driver must not drive when their ability to do so is impaired by having worked excessive hours. Drivers must comply with any requirement stipulated by the Council in relation to the monitoring of working hours.

Note: Particular care must be taken with unaccompanied children and vulnerable adults (See Part A above). Drivers should ensure that children and vulnerable adults leave the vehicle directly onto the kerb and immediately outside their destination.

In addition the driver of a hackney carriage vehicle must comply with the byelaws set by the Council. See Byelaws Section 182.

20. Assistance Dogs

No driver may refuse to carry a seeing, hearing or assistance (guide) dog that is in the charge of a fare paying passenger, and no charge shall be made for the carriage of such a dog whilst in the company of a disabled person or any person training such a dog. Any driver with a medical reason for not complying with this condition must obtain a medical certificate from a registered medical practitioner to exempt him/her from this condition, any payment for such certificate to be paid by the applicant. The Council may then issue an exemption certificate to be displayed in the vehicle whilst that person is driving that vehicle.

21. Appearance of Driver & Vehicle

21.1 The driver shall be clean and tidy in appearance.

21.2 The driver shall at all times be dressed in a manner not to cause embarrassment to members of the public.

21.3 Suitable footwear.

21.4 The driver shall at all times when driving a licensed vehicle ensure that such vehicle is maintained in a roadworthy and clean condition at all times.

21.5 The driver of a licensed vehicle shall ensure that none of the markings / signs / notices that are required to be displayed on the vehicle become concealed from public view or be so damaged or defaced that any figure or material particular is rendered illegible.

22. Deposit of Licence

If a driver is permitted or employed to drive a hackney carriage or private hire vehicle of which the operator is someone other than himself, he shall, before commencing to drive that vehicle, deposit his Hackney Carriage & Private Hire Driver's Licence with that operator for retention by him until such time as the driver ceases to be permitted or employed to drive the vehicle or any other vehicle. The operator must return such licence to the driver when he ceases to drive any vehicle operated by that operator.

23. Badges.

- 23.1** The driver shall at all times when operating, wear the badge provided by the Council in such position as to be plainly visible and if requested produce it on demand to the passenger or Authorised Officer.
- 23.2** The Driver shall not lend or give his or her badge or licence to any other person, save for the copy of the licence that is required by these conditions to be given to the Hackney Carriage Vehicle Proprietor / Private Hire Operator.
- 23.3** The Driver shall report the loss of the licence and/or badge to the Council as soon as such loss becomes known.
- 23.4** The driver shall upon expiry (without immediate renewal), revocation or suspension of his licence, return to the Council the driver's badges issued to him by the Council. A second badge is issued and must be clearly displayed in the vehicle. The badges shall remain the property of the Council at all times.

24. Prompt Attendance

The driver who has agreed or has been hired to be in attendance with the vehicle at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with the vehicle at such appointed time and place.

25. Number of Passengers

The driver shall not convey in the vehicle any greater number of persons than the number of persons specified on the plate affixed to the outside of the vehicle, (regardless of the age of any passenger carried). Shall not convey in the front seat any child below the age of twelve years or under 135cms unless wearing a suitable restraint and using a child/booster seat and not more than one person in any seat. Without the consent of the hirer permit any other person to be carried whilst hired.

26. Luggage

The driver of a vehicle so constructed as to carry luggage shall, when requested by a person hiring the vehicle;

- 26.1** convey a reasonable quantity of luggage.
- 26.2** afford reasonable assistance in loading and unloading.
- 26.3** afford reasonable assistance in removing it to or from the entrance gate or door of any building, station or any place at which he may take up or set down such person.
- 26.4** afford reasonable assistance to elderly, vulnerable or disabled persons with entering or alighting from the vehicle, and any other reasonable assistance

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 17

Brighton & Hove City Council

Subject: Hackney Carriage Unmet Demand Survey
Date of Meeting: 19 November 2015
Report of: Director of Public Health
Contact Officer: Name: **Martin Seymour** Tel: **29-6659**
E-mail: Martin.seymour@brighton-hove.gcsx.gov.uk
Wards Affected: All

1. SUMMARY AND POLICY CONTEXT:

To present the results of the Hackney Carriage Unmet Demand Survey and to give various options available to members to advise the executive. The summary and conclusions section of the survey report is appended (Appendix A).

2. RECOMMENDATIONS:

- 2.1 That committee recommends to keep the current number of hackney carriage vehicle licences at 560 **or**;
- 2.2 Recommends to continue to increase the number of hackney carriage vehicle licences issued by the council by 5 annually, such licences to be issued in May each year commencing in May 2016 **or**;
- 2.3 Recommend removing the limit on the number of hackney carriage vehicles issued and allow a free entry policy to vehicles, which are constructed or adapted and configured to carry passengers seated in wheelchairs, the type and design of the vehicle to be agreed by the Head of Regulatory Services Planning and Public Protection;
- 2.4 Recommend any additional licences issued under 2.2 & 2.3 above should be issued in accordance with the conditions attached to the Brighton & Hove City Council Hackney Carriage Vehicle Licence Waiting List and to vehicles which are constructed or adapted and configured to carry passengers seated in wheelchairs, the type and design of the vehicle to be agreed by the Director of Public Health.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The council licenses hackney carriage vehicles and private hire vehicles. The principal differences between the two licensing regimes are (i) hackney carriages can ply for hire in the streets and at taxi ranks whilst private hire vehicles can only accept bookings made through a private hire operator (ii) powers exist to limit the numbers of hackney carriages in prescribed circumstances but there is no power to limit the number of private hire vehicles (iii) the council prescribes fares for hackney carriages but has no power to determine fares for private hire bookings.
- 3.2 This council last reviewed its policy of quantity control of hackney carriages on 22 November 2012.
- 3.3 Section 16 of the Road Transport Act 1985 gives the council the power to refuse the grant of a licence for the purpose of limiting the number of hackney carriage vehicles within its area, but only if it is satisfied that there is no significant demand for the service of hackney carriages within its area which is unmet. At present council policy limits the number of hackney carriage vehicle licenses to 560 with 5 additional licenses issued annually in May.
- 3.4 The Department of Transport has issued Best Practice guidance regarding limiting numbers policies. Most local licensing authorities do not impose quantity restrictions; the Department regards that as best practice.
- 3.5 Because of its policy of limiting numbers, from time to time the council must commission an independent study to establish whether there is any significant unmet demand for the service of hackney carriages in Brighton and Hove. The Council recently commissioned such a study from independent transport consultants, Peter Brett Associates LLP, who produced their study report in October 2015. See Appendix B
- 3.6 In view of the study findings which found there to be no significant unmet demand Members have a discretion to recommend to the Council one of the following options: either (i) delimit, i.e. to remove the limitation on numbers; or (ii) continue with a restricted numbers policy but allow expansion of the fleet in a controlled manner; or (iii) keep the current number of hackney carriages vehicle licences at 560.
- 3.7 If Members decide to recommend to keep the current level of licences at 560 then the council would be required to commission a further survey to assess demand in around 3 years time. If Members decide to continue with a restricted numbers policy but with a policy of managed growth in line with paragraph 2.2 or 2.3 then the council would be required to commission a

further survey to assess demand in around 3 years time. If Members decide to delimit the council would not be required to commission a further survey.

- 3.8 The council maintains a waiting list for hackney carriage vehicle licences which currently has 250 applicants. It is recommended that all additional licences be offered to applicants in accordance with the conditions attached to the waiting list. This means that they would be offered to applicants according to their position on the list.
- 3.9 There are two potential avenues of legal challenge; an aggrieved party could seek judicial review of the committee's decision, and applicants could appeal against the refusal of a licence to the Courts. This is open to any applicant whether they are a licensed driver or not.
- 3.10 The Council has adopted a number of measures to increase the percentage of wheelchair accessible vehicles available. These are; all new licences issued must be attached to a wheelchair accessible vehicle, where a licence is transferred to another owner the vehicle must become wheelchair accessible at its next renewal, all vehicles capable of carrying 5 or more passengers must be wheelchair accessible. A higher fare was also set for vehicles when carrying 5 or more passengers to reflect the higher costs of running these vehicles and to encourage proprietors to change their vehicles to wheelchair accessible. Should members not wish to adopt 2.4 above all these measures may need to be reviewed.

4. The type of vehicle to be licensed

- 4.1 Taxis provide an important means of transport for disabled people and are often the only viable option available. The council's hackney carriage fleet is mixed; consisting of saloon cars and specially constructed or adapted wheelchair accessible vehicles. Locally, representatives of disabled groups have asked for the continued provision of a mixed fleet but are keen to increase the percentage of rear loading wheelchair accessible vehicles to meet the needs of passengers with large powered wheelchairs. This reflects the differing needs and preferences of the travelling public, including those who find it difficult to negotiate entry into wheelchair accessible vehicles and to sit down easily, and those confined to travelling in wheelchairs. With only 6% of persons with a disability being wheelchair users by concentrating on wheelchair accessible vehicles 94% of disabled people may be being inconvenienced or inadvertently discriminated against. However there is general consensus that there are too few disabled accessible vehicles.
- 4.2 Although unrelated to the concept of significant unmet demand in the 1985 Transport Act, Peter Brett LLP were asked to look at the issue of wheelchair accessibility via telephone bookings. Peter Brett has identified that waiting times for wheelchair accessible vehicles compared with ordinary saloon cars when booked by telephone have continued to improve. It should be

noted that this demand is principally a private hire demand and the requirement for additional accessible vehicles is not necessarily a requirement for more licensed vehicles, but for greater accessibility.

- 4.3 Members are therefore recommended to require that additional hackney carriage licences are restricted to wheelchair accessible vehicles. This will underline the council's commitment to those who suffer physical disability. However, in the interests of continuing to maintain a mixed fleet this policy, if continued, would need to be reviewed after a suitable interval, for example when the next unmet demand survey is undertaken.
- 4.4 If Members decide not recommend to so restrict the vehicles, then there is a risk of legal challenge from hackney carriage licence holders who were previously issued licences for wheelchair accessible vehicles, on the ground that the restriction on their licences is unreasonable. If successful, this would lead to a reduction in the number of wheelchair accessible vehicles. In view of the survey findings, disability interest groups or individuals might also challenge such a decision.

5 Related Issues

- 5.1 The main purpose of the survey was to determine whether or not there exists a significant unmet demand for hackney carriages and to determine the number of licences required to meet any identified unmet demand. There are other related issues which the council needs to keep under review in the longer term, such as the response to telephone bookings for wheelchair accessible vehicles referred to in 4.2 above, initiatives to encourage hackney carriage and private hire drivers to work unsociable hours, particularly at the weekends when there are peaks in night-time demand, the level of fares and measures to improve driver and passenger safety.
- 5.2 Crime reduction initiatives such as driver safety screens and in-car CCTV cameras have previously been supported by Committee. Other initiatives are still being developed including links with the community safety team and improved partnership between the taxi trade and the police. The level of fares are reviewed regularly including the question of whether there is justification to increase the differential between daytime and night-time fares to encourage drivers to work at times of peak demand.

6. CONSULTATION

- 6.1 Officers have consulted with trade representatives on the Hackney Carriage and Private Hire Consultation Forum, including attending a meeting with the consultant, forum members and the police to discuss points the trade wished to clarify.

- 6.2 Peter Brett LLP's consultations were with Hackney Carriage and Private Hire Trade Representatives; Taxis Operators; Disability representatives and Social Services; and Police and Community Safety Partnership.

7. FINANCIAL & OTHER IMPLICATIONS:

The cost of the current Unmet Demand Survey was met from within existing revenue budgets. The fees for Hackney Carriages are set at a level that is reasonably believed will meet the costs of providing the service. Therefore, this will include the cost of future Unmet Demand Surveys.

Total income in 2014-15 from fees was £314,552. If the number of hackney carriages is allowed to increase this will not necessarily result in an increase in income overall, as it may be offset by a reduction in private hire vehicles.

If the decision is taken to continue with a limitation policy, then there is the possibility of a legal challenge to the decision in court. The costs of any such challenge would have to be met from within existing budgets, funded from the fee income.

If the decision is taken to delimit the number of taxis, then subsequent monitoring of taxi ranks may reveal a need to expand their size or number, which the Council would be responsible for funding. Such costs could range from a few hundred pounds to a few thousand pounds, depending on the specific circumstances.

Finance Officer Consulted: Michael Bentley

Date: 30/10/2015

Legal Implications:

- 7.2 These are dealt with in the body of the report.

Lawyer: Rebecca Sidell

Date: 30.10.2015

Equalities Implications:

- 7.3 The Department of Transport had planned to make taxi accessibility regulations under the Equality Act 2010 but it appears that the majority of taxi regulations will not now be implemented. However, the Law Commission has proposed changes to taxis legislation which includes taxi accessibility. The government has yet to respond to these changes.

To issue extra licences each year will counter criticism that the hackney carriage vehicle licence waiting list may be discriminatory because it does not move as no extra licences are issued.

With only some 6% of persons with a disability nationally being wheelchair users. By concentrating on WAV's some 94% of the total may be being inconvenienced or inadvertently discriminated against.

Sustainability Implications:

- 7.4 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:

- 7.5 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:

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

Corporate / Citywide Implications:

- 7.7 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: A

Summary and Conclusions of Survey

Appendices: B

Survey of demand for Hackney Carriages (Peter Brett Associates LLP)

Executive Summary of Report

Peter Brett Associates LLP was appointed by Brighton and Hove City Council to undertake their 2015 survey of demand for hackney carriages. The technical work was undertaken by specialists CTS Traffic and Transportation as agreed with the client. The overall review covered the period from May to September 2015 with pedestrian survey work in May and July, driver consultation in June, rank work in mid-May and other stakeholders contacted over the full period available. The draft final report was reviewed by officers and trade. This Final Report will be presented to Council during November 2015.

Local Transport policy is led by the City Council as a unitary authority. Local Transport Plan 4 (LTP4) which provides the strategy for transport to 2030 notes that 2.4% of respondents to the highways and public transport satisfaction survey saying local taxi was the most important service to them. Less than 1% said this service was most in need of improvement, both figures suggesting a valued and appreciated service. Taxi ranks are identified as important interchanges worthy of local transport investment.

Brighton and Hove has exercised its power to restrict the number of hackney carriage vehicle licences since at least 1986 when the 1985 Transport Act was in place. The authority reviews the limit policy every three years and has managed growth by adding five extra wheel chair accessible vehicles (WAV) each year since 2011. Since 1994, the hackney carriage vehicle fleet has grown 25% whilst WAV proportions have risen from 10% to 40% of the fleet. Private hire vehicle have grown slightly more (28%) but saw a drop in numbers from 2011 to 2013 but a slight increase since then. 2015 total fleet numbers are just over 1,000 vehicles. Hackney carriage driver numbers have remained consistent and imply potentially high levels of double shifting of vehicles. Private hire driver levels have grown with vehicle numbers but show little evidence for double shifting of these vehicles. There are no dual driver licences in this authority.

Compared to other similar authorities, Brighton and Hove has the second highest level of provision of hackney carriages to population level – twice the average for England (excluding London). Dominance of hackney carriage in the area sees private hire provision very low in the comparison set and compared to the English average level. In terms of overall fleet size in the comparison group, Brighton and Hove is fifth and the last of the comparison group with over 1,000 total licensed vehicles. Dominance of the hackney carriages (which tend to be double-shifted) means the overall fleet size required is smaller than for similar authorities.

In terms of WAV provision in both fleets, Brighton and Hove is in a relatively favourable position. The level of hackney carriage WAV is very close to the English average level of 41% - whilst provision on the private hire side is well above both the English average and the group values. The continued managed growth and other policies have combined to see significant improvement in levels of WAV even since the last survey in 2012. In terms of national disability proxy statistics, it appears that Brighton and Hove has less disability need using one of the two statistics, but about the same using the other statistic (which may relate to a change in national provision for the disabled).

In fare terms, most tourist areas tend to have higher fares. Even within this group Brighton and Hove fares are high with the position now 15th equal in the UK NPHA comparison chart – compared to 17th in 2012. The main reason for this upward move is other places not keeping pace with general increases around the country.

Rank surveys covered the 11 main used specific rank locations, plus the private station rank (all covered in 2012) and one informal rank location. We observed 14,410 vehicle movements at or near these locations over some 340 hours. Just 1% of these movements were cars parking, picking up or setting down at or near ranks. Private hire abuse was minimal. In terms of vehicles seen, 52% of hackney carriages observed at ranks were WAV style – much higher than the actual level in the fleet (40%). Five people were seen accessing hackney carriages at ranks in wheel chairs. Four others were noted as visibly disabled and 99 further cases were observed where passengers were provided with assistance into vehicles by drivers.

The busiest rank is the private Station rank with a similar proportion of passengers to 2012 (40%) albeit at a much higher volume. Estimated weekly patronage is now 54,600 – 46% higher than in 2003, with the decline between 2009 and 2012 more than reversed. This value excludes hailing or use of hackney carriages through telephone bookings.

East Street has increased its proportion of passengers to 27% since 2012 and St Peter's Place rank has also moved up to the third spot. West Street, Hove Station and Queen Square have all lost both volumes of passengers and market share since 2012. The informal Church Street location is fifth in place in overall usage terms. Overall levels of rank usage at the busiest ranks are very high – with an average of 2.7 loaded hackney carriages departing each and every minute. The top two ranks are also operating effectively 24/7. Even many lesser used ranks see higher average patronage levels greater than the busiest ranks in some authorities we have surveyed recently. The service saw 75% of the fleet active on the Friday of the survey.

The ISUD index has increased since 2012, but remains very low at 0.67, and still lower than values seen in the three previous surveys for which we have information. Average passenger waiting time has fallen further, as has the proportion of

passengers waiting in hours with queues having an average waiting time over one minute. The percentage of queues in weekday daytime hours has increased, and the peak factor has changed with the area tending to see a flatter overall demand profile compared to the peaked profile previously identified.

A total of 636 members of the public were consulted directly (127 via the Council portal). This was the same methodology as in 2012. Since 2012 recent usage of licensed vehicles appears to have reduced a little. From the levels of quoted trip making, 85% of all trips are by hackney carriage, although the stated method of obtaining vehicles is 36% rank, 14% hail and 50% phone – many of these latter will actually end up being in hackney carriages operating on the phone circuits). Hackney carriages are well-known in the area – most thinking their last hackney carriage journey was in fact in a saloon vehicle. Most active ranks were known to people but dominated by the Station, East Street and Queen Square. The only issue appeared to be need for signing of Queen Square from nearby shops. There was little demand for any new ranks.

Latent demand on average was low although the portal proportion was higher – 31% compared to the direct face to face response of just 1.5%. Feeling safe has increased both for daytime and night time usage of hackney carriages.

The overall summary of public views of hackney carriage in Brighton and Hove is very positive with their service being well-known and respected.

Overall stakeholder consultation was very positive and very strong. Police only had issues with over-ranking. Disabled groups provided excellent feedback and a strong willingness to further increase working between themselves and the trade. Other information from national sources (17% increase in passengers at Brighton station) supported the growth in usage of hackney carriages overall.

A positive trade consultation was received. 28% worked at busy times and the least worked to avoid congestion or awkward customers. East Street was the most popular rank worked followed by the Station. There was increased support for retaining the limit policy. There were concerns about rank operation and shortage of overall rank spaces at active locations. There was general consensus regarding working with those representing the disabled to continually improve the service they received.

We found encouragements that those with disabilities needing to use the hackney carriage service are getting a better service now than in 2012. The last three years has seen a 37% increase in the level of WAV hackney carriages and this is evidenced by the improvement in the telephone test results.

The weight of evidence is **there is no significant unmet demand for the service of hackney carriage vehicles, either patent or latent in Brighton and Hove at**

this point in time. From the pure demand point of view there is no need for further vehicles to be added to the fleet.

However, demand is clearly growing together with need for detailed operational reviews of the West Street, Ship Inn and East Street ranks at night, together with urgent need to resolve the issue of the informal Church Street rank and its popularity to both passengers and drivers. The situation for those with disabilities is clearly improving but with a willingness from the trade and disabled representatives to take this development even further. The managed growth policy remains valid and beneficial although in future there may become a level of diminishing return and a clear review is needed if the aim is a 100% WAV fleet or some lesser level.

The current managed growth policy included a limited number of hackney carriage vehicles can continue but will need a further review in three years as per the Best Practice Guidance and potential Law Commission changes. This would involve allowing for rank surveys in May 2018 to maintain the present value of this review. In the interim it may be prudent for the council to work with the trade to develop performance indicators for key ranks and time periods to ensure that observed and expected growth within the three years did not lead to unmet demand growing to significant levels in the interim.

Further detailed recommendations are provided in Chapter 9 of the main report.