





**Brighton & Hove  
City Council**

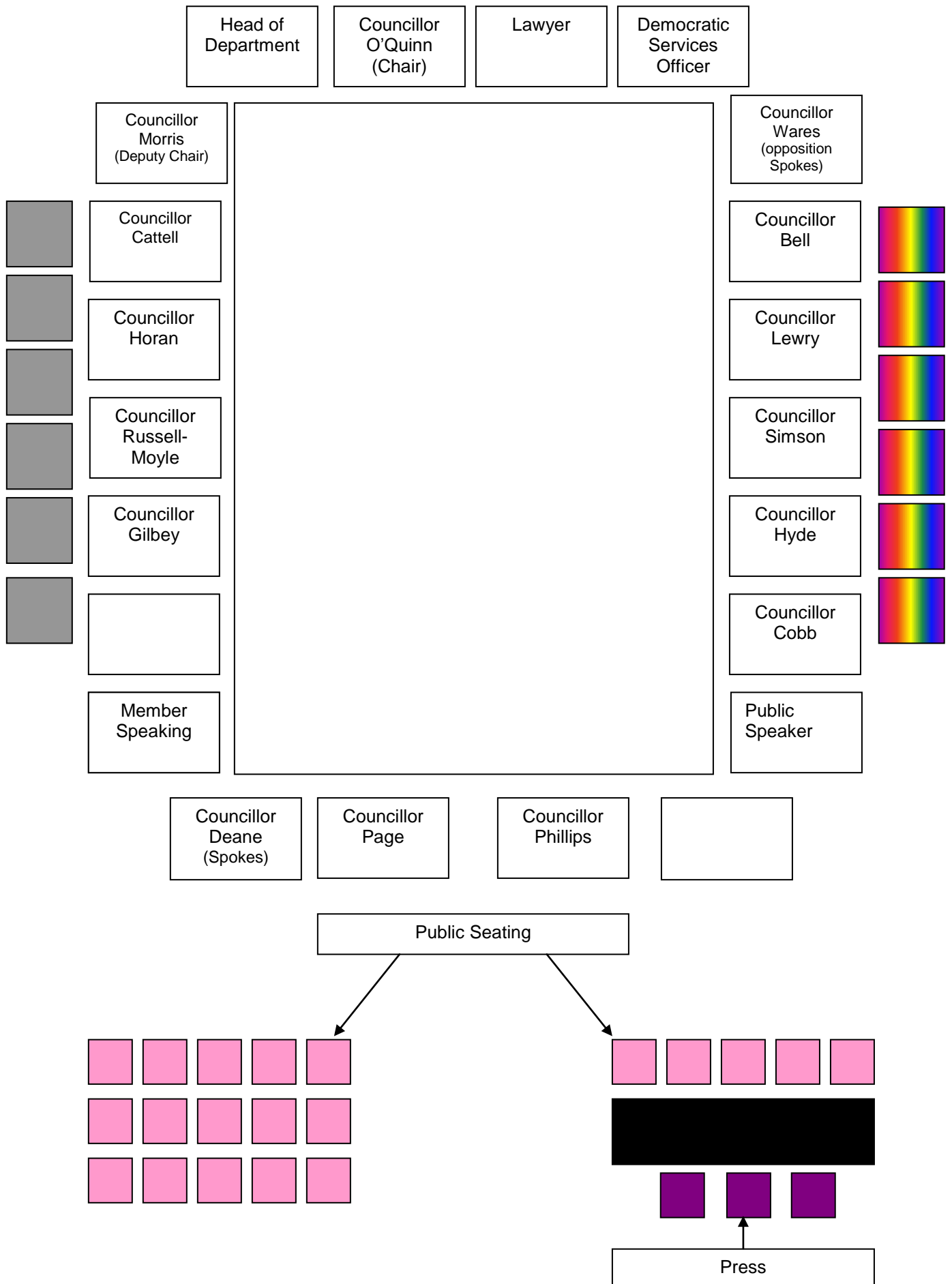
# Licensing Committee

(Non-Licensing Act 2003 Functions)

Title:	<b>Licensing Committee (Non Licensing Act 2003 Functions)</b>
Date:	<b>24 November 2016</b>
Time:	<b>3.00pm</b>
Venue	<b>Council Chamber, Hove Town Hall, Norton Road, Hove, BN3 4AH</b>
Members:	<b>Councillors:</b> O'Quinn (Chair), Morris (Deputy Chair), Wares (Opposition Spokesperson), Deane (Group Spokesperson), Bell, Cattell, Cobb, Horan, Hyde, Gilbey, Lewry, Page, Phillips, Russell-Moyle and Simson
Contact:	<b>Penny Jennings</b> 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
- (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 Two of the Agenda states in its heading 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 exempt categories is available for public inspection at Brighton and Hove Town Halls.*

### 11 MINUTES OF THE PREVIOUS MEETING

1 - 10

Minutes of the meeting held on 30 June 2016 (copy attached)

### 12 CHAIR'S COMMUNICATIONS

### 13 CALLOVER

(a) Items (15 – 19) will be read out at the meeting and Members

## LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

invited to reserve the items for consideration.

- (b) Those items not reserved will be taken as having been received and the reports' recommendations agreed.

### 14 PUBLIC INVOLVEMENT

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 (insert date);
- (c) **Deputations:** to receive any deputations submitted by the due date of 12 noon on the (insert date).

### 15 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.

### 16 PRESENTATION : WHEELCHAIR ACCESSIBILITY VEHICLE DISABILITY TRAINING

Presentation by representatives from Brighton and Hove Streamline providing an update on their Wheelchair Accessible Vehicle (WAV) Disability Training.

Following a 10 – 15 minute presentation Members of the Committee will have the opportunity to ask questions.

### 17 LICENSING FEES 2017/2018

11 - 26

Report of the Director of Neighbourhoods, Communities and Housing (copy attached)

Contact Officer: *Jim Whitelegg*  
Ward Affected: *All Wards*

Tel: 01273 292438

### 18 STREET TRADING EXCLUSION ZONES FOR SCHOOLS - STREET TRADING POLICY REVIEW

27 - 44

Report of the Director of Neighbourhoods, Housing and Communities

## LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

(copy attached)

Contact Officer: Jim Whitelegg  
Ward Affected: All Wards

Tel: 01273 292438

### 19 HACKNEY CARRIAGE & PRIVATE HIRE DRIVER ENFORCEMENT AND MONITORING 45 - 48

Report of the Director of Neighbourhoods, Communities and Housing  
(copy attached)

Contact Officer: Martin Seymour  
Ward Affected: All Wards

Tel: 01273 296659

### 20 ITEMS REFERRED FOR 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 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*

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

Date of Publication - Wednesday, 16 November 2016



**BRIGHTON & HOVE CITY COUNCIL**

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

**3.00PM 30 JUNE 2016**

**FRIENDS MEETING HOUSE, SHIP STREET, BRIGHTON**

**MINUTES**

**Present:** Councillors O'Quinn (Chair), Horan (Deputy Chair), Wares (Opposition Spokesperson), Deane (Group Spokesperson), Allen, Bell, Cattell, Gilbey, Hyde, Lewry, Moonan, Page and Phillips

**PART ONE**

**1 PROCEDURAL BUSINESS**

**1a Declaration of Substitutes**

1.1 There were none.

**1b Declarations of Interest**

1.2 There were none.

**1c 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 during consideration of any item on the agenda.

## 2 MINUTES OF THE PREVIOUS MEETING

- 2.1 **RESOLVED** – That the minutes of the Licensing Committee (Licensing Act 2003 Functions) Meeting held on 3 March 2016 be agreed and signed as a correct record.

## 3 CHAIR'S COMMUNICATIONS

- 3.1 The Chair explained that since the last meeting of the Committee:

### **Hackney Carriage & Private Hire Vehicles**

#### **Suspensions & Revocations**

- 1 Driver had his driver licence revoked for non-payment of the licence fee.
  - 2 Drivers had their licences suspended on medical grounds
  - 2 Drivers had their licences suspended pending investigations by the police
  - 2 Driver's had their licences suspended on conduct grounds
  - 1 Drivers licence was suspended due to drug use
  - 2 Drivers have received formal warnings for flipping
  - 2 Applicant's received warnings relating to previous cautions
  - 1 Application was refused due to convictions and cautions relating to supplying drugs.
- 3.2 Councillor Simson stated that she considered the information provided in the Chair's Communications gave cause for grave concern, including as it did, probably some of the worst instances of unacceptable behaviour by drivers which had ever been brought before the Committee. Councillor Hyde concurred in that view and Councillor Simson sought additional information and clarification in respect of the information given. The Hackney Carriage Officer explained that the instance relating to supply of drugs had been disclosed by the applicant on their DBS Disclosure Form. In the case of the licence suspended due to drug use, the driver concerned had informed the Hackney Carriage Office directly, notification had also been received via Social Services who had involvement with his family.
- 3.3 **RESOLVED** – That the content of the Chair's Communication be noted.

## 4 CALLOVER

- 4.1 All items appearing on the agenda were called for discussion and note.

## 5 PUBLIC INVOLVEMENT

### 5a Petitions



5.1 There were none.

## 5b Written Questions

5.2 The Chair reported that 1 public question had been received.

5.3 Ms Becky Rogers asked the following question:

“The proceedings on the revocation of the licence of the convicted taxi driver veered disastrously off track. Cyclists and pedestrians feel inadequately protected. Will the Committee ensure that complaints about road traffic issues involving taxis e.g. unsafe driving/speeding are received by the Council as well as the Police? Will the council:

(1) revise the ‘Blue Book’ to include exemplary standards of conduct towards other road users;

(2) use powers/influence to stop taxis blocking Advanced Stop Lines; and

(3) introduce outward-facing CCTV (4) develop a dialogue with vulnerable road users about these issues, in addition to receiving the trade-based Taxi Forum view?”

5.4 The Chair gave the following response:

“The Council did everything it could to take this driver off the road, including going to court twice to defend its decision to revoke the drivers licence. The decision to re-instate his licence was taken by the Magistrate’s Court and is not the Council’s decision. The High Court gave us a different interpretation of the law and this is outlined in the report (Agenda item 8).

Ideally the Police should notify us of such issues and do most of the time but we have no power to require them to do so. Unfortunately, the Council were not informed of this offence and only picked up on it through a Council lawyer attending court that day. The Council then took action to revoke the drivers licence. We are largely dependent on intelligence being passed to us from the police and public and have requested information from the police in the future.

The current “Blue Book” has very high standards compared to many local authorities, leading the way in areas such as disabilities, child protection, domestic violence, etc. It sets out clear licensing objectives and standards. It is not clear what further standards in relation to conduct towards other road users could be applied, over and above those already required by a driver under the Road Traffic Acts and the ‘fit and proper test’.

The Council has wide discretion in applying the “fit and proper” test and must judge on a “case by case” basis. It did so in this case and took what it considered appropriate action. As already explained, the Court took a different view. We would expose ourselves to judicial challenge if the system required more of a driver than is already covered by the Road Traffic Act and the “fit and proper” test.

Such an Infringement - encroaching into the advanced stop line cycle space in front of traffic lights when light is red- is a specific infringement under the Traffic Signs, Regulations and General Directions 2016, and thus is an offence under the Road Traffic

Regulation Act 1984. It is primarily a traffic police matter. The Council has no power to deal with the offence. Having said that we deal with issues of road safety at our regular Taxi Forum. Indeed "Advanced Stop Lines" was an agenda item at the last forum and a presentation and guidance was given to drivers by the Road Safety Team."

5.5 Ms Rogers then asked the following supplementary question:

"Do you agree that Road Safety and the governance of this area would be improved if you received complaints and adequate information about road traffic issues that affect vulnerable road users e.g. when people report issues to Operation Crackdown, they also send a copy to the Hackney Carriage Office or the Council?"

The current policy does not invite this information, as shown in Item 8, page 11-12 which clearly states:

"Complaints about:

- antisocial driving
- unsafe driving/speeding
- using mobile phones while driving
- moving traffic offences
- road rage
- ignoring traffic signs and signals

Should be reported to Sussex Police via Operation Crackdown."

5.6 Ms Reynolds stated that the point she was making was that currently there was no requirement that a copy of a report (by the police) about a bad road traffic experience should also be sent to the council. The Council therefore remained ignorant of most of the negative experiences of cyclists and pedestrians, such as taxis pulling into Advanced Stop Line areas or performing other manoeuvres to the detriment of cyclists. It would appear that the channel of information between Sussex Police and the Council required improvement. Information about road traffic incidents involving taxis and vulnerable road users needed to be better collected, shared and acted upon, with a clear remit for improvement, and measurement of outcomes. It was considered that Taxi Forum and the Hackney Carriage Office would benefit from the perspective of cyclists and pedestrians and it would be helpful if membership of the Forum could be extended to include representatives from these groups.

5.6 The Chair gave the following response:

"Thank you for the points you have raised. I think the Committee has taken on board your comments about the need for better communications regarding road traffic incidents/issues between the police and the council. I am sure that work will be done to progress this. I agree that it is important to gain as detailed a picture as possible of any road safety issues. At the next meeting of the Taxi Forum scheduled to take place on 20 July 2016, the matter will be raised and discussed as to whether it is possible to have a broader range of road user interests represented."

5.7 In concluding this item, the Chair confirmed that all that had been said was noted and that the matters raised would also be taken on board when the Blue Book was next updated. It was important to note that regular Taxi Forum meetings took place between Members, Officers and representatives of the trade and any issues/on-going issues were discussed.

**5c Deputations**

5.7 There were none.

**6 MEMBER INVOLVEMENT**

**6a Petitions**

6.1 There were none.

**6b Written Questions**

6.2 There were none.

**6c Letters**

6.1 The Chair confirmed that one letter had been received from Councillor Peltzer Dunn as set out in the agenda and below:

“I have previously raised my concern about a serious road safety problem that has arisen outside the entrance to West Hove Junior School and other schools where it appears that street traders have sited their ice cream vans in very close proximity to the school’s exit. This results in the pavement being blocked and children and adults being forced out into School Road placing them in danger during the very busy time when the children leave school.

Provided the traders van is in a legal parking space no action can be taken as they are not breaking any Council regulations for Street trading within Zone B of the scheme.

Over the past years there has been increasing debate over the unhealthy nature of school children’s eating habits and this is certainly not helped by the proximity of street traders vans such as that above.

I am aware that a review was undertaken in 2009 in respect of the possibility of having exclusion zones and that the Street Trading Policy was agreed in 2013. However, I believe that in the interests of both road safety and on health grounds it would be appropriate for the committee to request officers to undertake a review of the Council’s Street Trading Policy within Zone B to prohibit such street trading within a minimum of 50 metres of a School’s entrance/exit.”

6.2 The Chair gave the following response:

“In 2009 the Licensing Committee considered a report into possible exclusion” zones around schools in 2009 and after extensive consultation the Licensing Committee

decided that using street trading regulations to promote healthy food, although appealing, may not be proper use of the regulatory controls. There has been a recent case in North Lanarkshire which ruled that a ban on Burger vans selling within 250 metres of schools was not lawful on grounds of diet and health.

Street trading consent regulations' primary purpose is to prevent obstruction of the street or danger to persons using it, or nuisance or annoyance to people using the street or otherwise. The department promotes diet, health and local food issues including engagement with school children by its healthy awards scheme and the recently launched Sugar Smart City initiative. Using street trading regulations to promote healthy food, although appealing, is not likely to be proper use of the Regulatory controls."

### **Street Trading Consent Zone B Local Government (Miscellaneous Provisions) Act 1982**

The Council's Street Trading Policy was set by Members at Licensing Committee after extensive consultation and was last considered at Licensing Committee on the 21<sup>st</sup> November 2013.

The city centre streets, with a few exceptions, are prohibited streets. There are five static pitches within the City Centre (Zone A), mainly off Western Rd Brighton, where trading is permitted. Outside of the city centre (Zone B), traders with a consent can trade on the highway, providing they are not causing a nuisance, obstruction or danger to the public. The Council's street trading policy can be found from the following link, <http://www.brighton-hove.gov.uk/content/business-and-trade/licensing-and-gambling/street-trading> which sets out in a table the type of trading permitted in certain areas of the city.

Ice Cream Vans are issued permits by the Licensing Team giving them consent to trade as "Mobile Street Trading". Mobile Street trading is allowed in Zone B (outside of the city centre), with the exception of Parks & Gardens and within 1 mile of the Falmer Community Stadium therefore it gives mobile trading a wide area to trade from. There are no stipulations of roads but only that trading takes place within Zone B in accordance with the Street Trading Policy.

In order for any proposed Policy change to go to Licensing Committee, we would need significant input from the public in the form of a petition, deputation or councillor question for Committee to agree to begin extensive consultation on the proposed change. The basis for such change would need to be appropriate and lawful.

It is worth noting that the Licensing Committee considered a report into possible "exclusion" zones around schools in 2009 and after extensive consultation the Licensing Committee decided that using street trading regulations to promote healthy food, although appealing, may not be proper use of the regulatory controls. There has been a recent case in North Lanarkshire which ruled that a ban on Burger vans selling within 250 metres of schools was not lawful on grounds of diet and health. Please see the link to the BBC report: <http://www.bbc.co.uk/news/uk-scotland-glasgow-west-34983735>

The regulation of street trading by consents covers infrequent, itinerant trading. There is no right of appeal against refusal and so it is vital that licensing authorities behave in a

fair and reasonable manner. An established street trader would have a reasonable expectation that his/her consent would continue. Street trading consent regulations' primary purpose is to prevent obstruction of the street or danger to persons using it, or nuisance or annoyance to people using the street or otherwise. The department promotes diet, health and local food issues including engagement with school children by its healthy awards scheme and the recently launched Sugar Smart City initiative. Using street trading regulations to promote healthy food, although appealing, is not likely to be proper use of the Regulatory controls."

- 6.3 Councillor Peltzer Dunn thanked the Chair for her response which was in line with the officer response which he had received previously. Whilst acknowledging all that had been said he had major concerns in relation to safety and would like further consideration to be given to that aspect. When he had raised this matter at the meeting of the Children Young People and Skills Committee recently Members had expressed support that the feasibility of any further action which could be taken should be explored.
- 6.4 Councillor Hyde noted all that had been said and asked whether it would be possible for the current arrangements to be revisited and for a report to be brought back to a future meeting of the Committee in order for members to determine whether they considered it appropriate to review the current arrangements. Councillor Hyde added that in her view it would be appropriate to look at the city as a whole than focusing only on outer areas.
- 6.5 Councillor Simson stated that as the existing policy had last been updated in 2009, in her view it was appropriate to revisit it, especially as it appeared that this problem might be increasing.
- 6.6 Councillor Deane considered that it would be very helpful to the committee if a holistic approach could be taken and thought to more generic safety issues, for instance if a vehicle was parked on the opposite side of a busy road from a school, that constituted a greater potential road safety risk than if a vehicle was parked on the same side of the road.
- 6.7 Councillor Moonan agreed that it would timely to investigate this matter further.
- 6.8 The Public Health, Licensing Lead, Jim Whitelegg explained that when this matter had been looked at in the past the means by which different types of vehicles could be defined had been unclear and it had not been permitted under legislation to consider road safety issues.
- 6.9 Councillor Wares sought confirmation as to the committee were agreeing to undertake a review presently? The Legal Adviser to the Committee, Rebecca Sidell confirmed that at this stage the Committee were authorising officers to assess the current policy in relation to street trading and to submit a report to a future meeting of the committee recommending whether it would be appropriate to review it.
- 6.10 **RESOLVED** – That a further report be brought forward to a future meeting of the committee assessing the current policy in relation to street trading and advising as to whether it would be appropriate for it to be updated.

#### 6d Notices of Motion

6.11 There were none.

## 7 HACKNEY CARRIAGE STANDS

7.1 The Committee considered a report of the Acting Director of Public Health providing an update on Hackney Carriage stand provision in the city.

7.2 The Public Health, Licensing Lead, Jim Whitelegg explained that the council licensed hackney carriage vehicles and private hire vehicles. The principal differences between the two licensing regimes were (i) hackney carriages could ply for hire in the streets and at taxi ranks (referred to as “stands” in legislation) whilst private hire vehicles can only accept bookings made through a private 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 private hire bookings.

7.3 It was explained that the council had last reviewed its policy of quantity control of hackney carriages on 19 November 2015. Currently council policy limited the number of hackney carriage vehicle licences to 565 with 5 additional licences issued annually in May.

7.4 The Public Health, Licensing Lead went on to explain that a meeting had been held with stakeholders on 20 June in order to discuss concerns regarding operation of the private stand at Brighton Station. This had included Councillor Deane in her capacity as a Local Ward Councillor Councillor Deane was also a Member of this Committee and representatives of Brighton and Hove Bus and Coach Company, the Taxi Forum and Council Officers representing taxi licensing, transport and environment and GTR. The meeting had been chaired by Councillor Gill Mitchell and had followed an earlier one at which it had been agreed to seek to find an alternative location for the existing taxi rank at the front of the station where Council officers had agreed to develop some engineering proposals for relocating rank space on Stroudley Road and relocating existing parking bays. The Council had also looked at possible routeing to the north, to the east and to the south through the North Laine. This information had been put together and had been presented as two options for discussion at the meeting. GTR had also reported back on progress on how the alternative rank location could be marketed and planned to accommodate customers and current arrangements at the station. Productive discussions had taken place and stakeholders had agreed to contribute towards the cost of developing designs and solutions. A further meeting was planned in order for GTR and Council officers to develop a preferred option.

7.5 Councillor Simson welcomed the report and the fact that further ongoing discussions were taking place with the trade. Problems arose when vehicles did not wait at ranks or when over ranking occurred. It was noted that the sea front and station remained particular problem areas currently. Councillor Deane also welcomed the work that had been undertaken hoping that there would be positive outcomes as result.

7.6 The Chair Councillor, O’Quinn stated that she was taking this matter forward proactively and that it was her intention to attend meetings with the trade and other stake holders on matters germane to licensing.

7.7 **RESOLVED** – That the content of the report be received and noted.

## 8 HACKNEY CARRIAGE & PRIVATE HIRE DRIVER ENFORCEMENT

- 8.1 The Committee considered a report of the Acting Director of Public Health advising on driver enforcement in respect hackney carriage and private hire vehicles.
- 8.2 The Public Health Licensing Lead, Jim Whitelegg explained that the council licensed hackney carriage and private hire vehicles, drivers and operators. Hackney Carriages could ply for hire in the streets and at taxi ranks ("stands" in legislation) whilst Private Hire Vehicles could only accept bookings made through a Private Hire Operator. Details of the enforcement measures available were set out in the report as were details in relation to the incident in relation to an accident between a private hire vehicle and a cyclist (subject of a public question detailed at 5(b) of these minutes above). The driver concerned had cut across the path of the cyclist knocking her off the bike and had driven off at speed without checking whether she was injured or offering any assistance.
- 8.3 Councillor Horan stated that this issue was alarming enquiring as to means by which it could be ensured that all vehicle drivers could be identified easily.
- 8.4 Councillors Simson and Deane concurred stating that although an isolated incident this reflected very badly on the trade did little to promote confidence, and could have resulted in a tragedy. Enforcement measures available needed to be as robust as they could be and the clarification and update provided by the report were welcomed. Councillors Wares and Page concurred in that view. Councillor Wares considered that whilst the seriousness of this particular incident could not be overstated it was important to note the positive initiatives which had been instigated by the licensed taxi trade in the city too.
- 8.5 Councillor Wares stated that he was pleased to note that enforcement was a standing item at meetings of the Hackney Carriage and Private Hire Forum, members of which included members of the trade, unions, Sussex Police, Brighton and Hove bus Company, local disability groups and officers of the council.
- 8.6 Councillor Moonan stated that the decision taken by the individual Magistrate in this instance was unfortunate and it was difficult to comprehend the rationale for it.
- 8.7 Councillor Phillips stated that it was important to note that a number of drivers across the city provided a very good standard of service to their customers.
- 8.8 The Chair noted all that had been said and in closing the debate stated that the point made by Ms Reynolds when putting her supplementary question (minute 5b above refers) had been well made. It was important to seek to ensure that there was better communication between the police and the council regarding road traffic incidents and she was sure that further work would be done to ensure that happened.
- 8.9 **RESOLVED** – That the content of the report be received and noted.

## 9 ITEMS REFERRED FOR COUNCIL

- 9.1 There were none.

The meeting concluded at 4.15pm

Signed

Chairman

Dated this

day of



# LICENSING COMMITTEE (NON-LICENSING ACT 2003 FUNCTIONS)

## Agenda Item 17

Brighton & Hove City Council

<b>Subject:</b>	<b>Licence Fees 2017/2018</b>		
<b>Date of Meeting:</b>	<b>24 November 2016</b>		
<b>Report of:</b>	<b>Director of Neighbourhoods, Communities &amp; Housing</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Jim Whitelegg, Licensing Manager</b>	<b>Tel: 29-2438</b>
	<b>Email:</b>	<a href="mailto:Jim.whitelegg@brighton-hove.gcsx.gov.uk">Jim.whitelegg@brighton-hove.gcsx.gov.uk</a>	
<b>Ward(s) affected:</b>	<b>All</b>		

### FOR GENERAL RELEASE

#### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report sets out the proposed licence fees and charges for 2017/18 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:
- All Hackney Carriage and Private Hire, Driver, Vehicle and Operator fees remain the same.
  - Sex entertainment venues and sex establishments – decreased by -8.6%.
  - Street trading fees– remain unchanged.
  - All Gambling Act 2005 fees – remain unchanged.
- A list of agreed fees for 2016-17 and proposed fees for 2017-18 is included in Appendix 1-2.

#### 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 with the aim of covering the cost of administration of each regime within the constraints of regulation. Licence fees should not be used to raise surplus revenues. 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.

#### Licence Fee Setting – general principles

- 3.2 There must be a proper determination of the authorisation fee (see Hemming 2015] UKSC.

- 3.3 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.
- 3.4 Applicability of the European Services Directive (see *Hemming* [2015] UKSC: The Directive applies to street trading and sex licensing; not gambling or taxis.
- 3.5 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.
- 3.6 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].
- 3.7 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.
- 3.8 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.
- 3.9 Anticipated costs. Cases demonstrate that the fee level may be fixed by reference to anticipated costs of administering the authorisation scheme.
- 3.10 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**

- 3.11 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.

3.12 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.

<b>Taxi Licensing</b>	
<b>Financial Year</b>	<b>£'000 (- Surplus)/ Deficit</b>
2015/16 Actual	34
2016/17 Forecast	-5
2017/18 Budget	0
<b>Total</b>	<b>29</b>

3.13 The proposed fees remain unchanged to help reduce the annual deficit with an aim to bring the trading account to a breakeven position. Detailed Trading Accounts are attached in Appendix 3.

### **Sex establishments and Street trading**

3.14 Sex establishments: A breakdown of inspections carried out during 2015/16 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.

3.15 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. The results are set out in the table below.

<b>Sex Establishments and Sex Entertainment Venues</b>	
<b>Financial Year</b>	<b>£'000 (-Surplus)/ Deficit</b>
2015/16 Actual	-6
2016/17 Forecast	-5
2017/18 Budget	-2
<b>Total</b>	<b>-13</b>

The proposed fee changes (-8.6%) 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 4.

- 3.16 Following the same principles as stated previously, a trading position has been established for Street Trading. During 2015/16, 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.

- 3.17 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.

<b>Street Trading</b>	
<b>Financial Year</b>	<b>£'000 (-Surplus)/ Deficit</b>
2015/16 Actual	-20
2016/17 Forecast	-3
2017/18 Budget	-3
<b>Total</b>	<b>-26</b>

The proposed fees remain unchanged to help bring the trading account to a breakeven position. Detailed Trading Accounts are attached in Appendix 4.

**Gambling Act 2005**

- 3.18 The proposed fees remain unchanged to help bring the trading account to a breakeven position. Trading accounts can be found at Appendix 2.

<b>Gambling Act</b>	
<b>Financial Year</b>	<b>£'000 (-Surplus)/ Deficit</b>
2015/16 Actual	-8
2016/17 Forecast	-2
2017/18 Budget	-2
<b>Total</b>	<b>-11</b>

#### **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 Licence 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 3-4.

Finance Officer Consulted: Michael Bentley

Date 18.10.16

##### Legal Implications:

7.2 Legal constraints on setting fees are as follows:

- 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. The domestic legislation will require “any charges provided for by a competent authority which the applicant may incur under an authorisation scheme must be reasonable and proportionate to the cost of the authorisation procedures and formalities under the scheme and must not exceed those procedures and formalities”. Any fee charged for establishing a service can only be based on cost recovery and cannot be set at an artificial high level to deter service sectors from an area. The applicability of the Directive has been discussed in the recent case of Hemming (and others) v Westminster City Council (2015) UKSC.. The Council should schedule regular fee reviews.
- 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: 06.10.15

Equalities Implications:

7.3 There are no direct equalities implications.

Sustainability Implications:

7.4 There are no direct sustainability implications.

Any Other Significant Implications:

SUPPORTING DOCUMENTATION

Appendices:

1-2 List of fees and charges.

3-4. List of Trading accounts.

Documents in Members' Rooms

1. None.

2. None.

## Background Documents

1. None.





**Appendix 1**

<b>TAXI LICENCE FEES</b>			
	<b>2016-17</b>	<b>2017-18</b>	
	<b>Agreed Fee £</b>	<b>Proposed Fee £</b>	<b>Change %</b>
First Application (drivers)	<b>£101.00</b>	<b>£101.00</b>	0.0%
DBS Check*	<b>£44.00</b>	<b>£44.00</b>	0.0%
Hackney Carriage Drivers Licence (3 year Licence)	<b>£300.00</b>	<b>£300.00</b>	0.0%
Private Hire Drivers Licence (3 year Licence)	<b>£228.00</b>	<b>£228.00</b>	0.0%
Hackney Carriage Vehicle Licence (Full Year)	<b>£166.00</b>	<b>£166.00</b>	0.0%
Hackney Carriage Vehicle Licence (Half Year)	<b>£83.00</b>	<b>£83.00</b>	0.0%
Private Hire Vehicle Licence (Full Year)	<b>£65.00</b>	<b>£65.00</b>	0.0%
Private Hire Vehicle Licence (Half Year)	<b>£32.50</b>	<b>£32.50</b>	0.0%
Hackney Carriage Plate Deposit	<b>£33.00</b>	<b>£33.00</b>	0.0%
Private Hire Plate Deposit	<b>£24.00</b>	<b>£24.00</b>	0.0%
Private Hire Operator Licence (1 or 2 Cars) - 5 year Licence	<b>£145.00</b>	<b>£145.00</b>	0.0%
Private Hire Operator Licence (3 or more Cars) - 5 year Licence	<b>£515.00</b>	<b>£515.00</b>	0.0%
Hackney Carriage Substitute Vehicle Fee	<b>£25.00</b>	<b>£25.00</b>	0.0%
Private Hire Substitute Vehicle Fee	<b>£25.00</b>	<b>£25.00</b>	0.0%
Knowledge Test Fee	<b>£25.00</b>	<b>£25.00</b>	0.0%
Route Test Fee	<b>£35.00</b>	<b>£35.00</b>	0.0%

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



Appendix 2

LICENSING FEES			
	2016-17	2017-18	
	Agreed Fee £	Proposed Fee £	Change %
<b>Sex Establishments and Venues</b>			
Sex Entertainment Venue	£3,700.00	£3,380.00	-8.6%
Sex Establishments - Grants	£3,700.00	£3,700.00	0.0%
Sex Establishments - Renewal	£3,700.00	£3,380.00	-8.6%
Sex Establishments - Occasional	£2,000.00	£2,000.00	0.0%
<b>Street Trading</b>			
Upper Gardner Street	£510.00	£510.00	0.0%
Zone B	£610.00	£610.00	0.0%
Zone A 50 sq ft.	£4,190.00	£4,190.00	0.0%
Zone A 42 sq. ft.	£3,440.00	£3,440.00	0.0%
Street Artists	£30.00	£30.00	0.0%
Misc. Short Term	£30.00	£30.00	0.0%
Farmers Maker (per stall)	£220.00	£220.00	0.0%
Small Street Marker (per occasion)	£290.00	£290.00	0.0%
<b>Gambling Act</b>			
Existing Casino - Reg 4 (2) (a)	£360.00	£360.00	0.0%
Existing Casino - Reg 4 (2) (b)	£1,434.00	£1,434.00	0.0%
Existing Casino - Reg 6 and Reg 8	£2,032.00	£2,032.00	0.0%
Existing Casino - Reg 10	£13.85	£13.85	0.0%
Existing Casino - Reg 11	£1,434.00	£1,434.00	0.0%
Existing Casino - Reg 12	£1,434.00	£1,434.00	0.0%
Existing Casino - Reg 13	£13.85	£13.85	0.0%
Existing Casino - Reg 14	£1,350.00	£1,350.00	0.0%
Bingo Premises - Reg 4 (2) (a)	£360.00	£360.00	0.0%
Bingo Premises - Reg 4 (2) (b)	£1,434.00	£1,434.00	0.0%
Bingo Premises - Reg 5 (2) (a)	£741.00	£741.00	0.0%
Bingo Premises - Reg 5 (2) (b)	£1,434.00	£1,434.00	0.0%
Bingo Premises - Reg 6 and Reg 8	£712.50	£712.50	0.0%
Bingo Premises - Reg 10	£13.85	£13.85	0.0%
Bingo Premises - Reg 11	£1,434.00	£1,434.00	0.0%
Bingo Premises - Reg 12	£1,200.00	£1,200.00	0.0%
Bingo Premises - Reg 13	£13.85	£13.85	0.0%
Bingo Premises - Reg 14	£1,200.00	£1,200.00	0.0%
Bingo Premises - Reg 15	£1,434.00	£1,434.00	0.0%
AGCs - Reg 4 (2) (a)	£360.00	£360.00	0.0%
AGCs - Reg 4 (2) (b)	£1,200.00	£1,200.00	0.0%
AGCs - Reg 5 (2) (a)	£741.00	£741.00	0.0%
AGCs - Reg 5 (2) (b)	£1,434.00	£1,434.00	0.0%
AGCs - Reg 6 and Reg 8	£712.50	£712.50	0.0%
AGCs - Reg 10	£13.85	£13.85	0.0%
AGCs - Reg 11	£1,000.00	£1,000.00	0.0%
AGCs - Reg 12	£1,200.00	£1,200.00	0.0%
AGCs - Reg 13	£13.85	£13.85	0.0%
AGCs - Reg 14	£1,200.00	£1,200.00	0.0%
AGCs - Reg 15	£1,434.00	£1,434.00	0.0%
Betting Tracks - Reg 4 (2) (a)	£360.00	£360.00	0.0%
Betting Tracks - Reg 4 (2) (b)	£1,434.00	£1,434.00	0.0%
Betting Tracks - Reg 5 (2) (a)	£741.00	£741.00	0.0%
Betting Tracks - Reg 5 (2) (b)	£1,434.00	£1,434.00	0.0%
Betting Tracks - Reg 6 and Reg 8	£712.80	£712.80	0.0%

**Appendix 2**

<b>LICENSING FEES</b>			
	<b>2016-17</b>	<b>2017-18</b>	
	<b>Agreed Fee</b>	<b>Proposed Fee</b>	<b>Change</b>
	<b>£</b>	<b>£</b>	<b>%</b>
Betting Tracks - Reg 10	<b>£13.85</b>	<b>£13.85</b>	0.0%
Betting Tracks - Reg 11	<b>£1,250.00</b>	<b>£1,250.00</b>	0.0%
Betting Tracks - Reg 12	<b>£950.00</b>	<b>£950.00</b>	0.0%
Betting Tracks - Reg 13	<b>£13.85</b>	<b>£13.85</b>	0.0%
Betting Tracks - Reg 14	<b>£950.00</b>	<b>£950.00</b>	0.0%
Betting Tracks - Reg 15	<b>£1,434.00</b>	<b>£1,434.00</b>	0.0%
FECs - Reg 4 (2) (a)	<b>£360.00</b>	<b>£360.00</b>	0.0%
FECs - Reg 4 (2) (b)	<b>£1,200.00</b>	<b>£1,200.00</b>	0.0%
FECs - Reg 5 (2) (a)	<b>£741.00</b>	<b>£741.00</b>	0.0%
FECs - Reg 5 (2) (b)	<b>£1,434.00</b>	<b>£1,434.00</b>	0.0%
FECs - Reg 6 and Reg 8	<b>£547.80</b>	<b>£547.80</b>	0.0%
FECs - Reg 10	<b>£13.85</b>	<b>£13.85</b>	0.0%
FECs - Reg 11	<b>£1,000.00</b>	<b>£1,000.00</b>	0.0%
FECs - Reg 12	<b>£950.00</b>	<b>£950.00</b>	0.0%
FECs - Reg 13	<b>£13.85</b>	<b>£13.85</b>	0.0%
FECs - Reg 14	<b>£950.00</b>	<b>£950.00</b>	0.0%
FECs - Reg 15	<b>£1,386.00</b>	<b>£1,386.00</b>	0.0%
Betting Other - Reg 4 (2) (a)	<b>£360.00</b>	<b>£360.00</b>	0.0%
Betting Other - Reg 4 (2) (b)	<b>£1,434.00</b>	<b>£1,434.00</b>	0.0%
Betting Other - Reg 5 (2) (a)	<b>£741.00</b>	<b>£741.00</b>	0.0%
Betting Other - Reg 5 (2) (b)	<b>£1,434.00</b>	<b>£1,434.00</b>	0.0%
Betting Other - Reg 6 and Reg 8	<b>£448.80</b>	<b>£448.80</b>	0.0%
Betting Other - Reg 10	<b>£13.85</b>	<b>£13.85</b>	0.0%
Betting Other - Reg 11	<b>£1,434.00</b>	<b>£1,434.00</b>	0.0%
Betting Other - Reg 12	<b>£1,200.00</b>	<b>£1,200.00</b>	0.0%
Betting Other - Reg 13	<b>£13.85</b>	<b>£13.85</b>	0.0%
Betting Other - Reg 14	<b>£1,200.00</b>	<b>£1,200.00</b>	0.0%
Betting Other - Reg 15	<b>£1,434.00</b>	<b>£1,434.00</b>	0.0%
Lotteries New - Reg 12	<b>£40.00</b>	<b>£40.00</b>	0.0%
Lotteries New - Reg 14	<b>£40.00</b>	<b>£40.00</b>	0.0%
Renewal - Reg 12	<b>£20.00</b>	<b>£20.00</b>	0.0%
Renewal - Reg 14	<b>£40.00</b>	<b>£40.00</b>	0.0%

**Appendix 3 - Taxi Licensing Trading Accounts 2015-2018**

2015-16 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		38,442		49,320		14,669		17,505
Indirect Employees (Non DBS)	31%	961	42%	1,300	12%	372	15%	474
Indirect Employees (DBS)	0%	0	66%	19,627	0%	0	34%	9,995
Premises Related	31%	156	42%	211	12%	60	15%	77
Transport Related	31%	469	42%	635	12%	181	15%	231
Unmet Demand Survey	100%	20,304	0%	0	0%	0	0%	0
Driver Assessments/Checks	0%	0	66%	18,631	0%	0	34%	9,488
Supplies and Services	31%	11,704	42%	15,829	12%	4,528	15%	5,770
Support Services	31%	18,534	42%	25,065	12%	7,169	15%	9,137
Management Overhead	31%	17,632	42%	23,845	12%	6,820	15%	8,692
<b>Total Expenditure</b>		<b>108,202</b>		<b>154,461</b>		<b>33,800</b>		<b>61,368</b>
<b>Total Income</b>		<b>-96,898</b>		<b>-137,290</b>		<b>-36,191</b>		<b>-53,260</b>
<b>Total (Surplus) / Deficit</b>		<b>11,304</b>		<b>17,171</b>		<b>-2,391</b>		<b>8,108</b>

2016-17 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		39,051		50,131		15,037		17,856
Indirect Employees (Non DBS)	31%	741	42%	1,003	12%	287	15%	365
Indirect Employees (DBS)	0%	0	66%	16,565	0%	0	34%	8,435
Premises Related	31%	0	42%	0	12%	0	15%	0
Transport Related	31%	494	42%	668	12%	191	15%	244
Unmet Demand Survey	100%	0	0%	0	0%	0	0%	0
Driver Assessments/Checks	0%	0	66%	20,871	0%	0	34%	10,629
Supplies and Services	31%	8,525	42%	11,530	12%	3,298	15%	4,203
Support Services	31%	18,904	42%	25,566	12%	7,313	15%	9,320
Management Overhead	31%	20,128	42%	27,221	12%	7,786	15%	9,923
<b>Total Expenditure</b>		<b>87,844</b>		<b>153,555</b>		<b>33,911</b>		<b>60,975</b>
<b>Total Income</b>		<b>-92,130</b>		<b>-153,057</b>		<b>-32,873</b>		<b>-63,400</b>
<b>Total (Surplus) / Deficit</b>		<b>-4,286</b>		<b>497</b>		<b>1,038</b>		<b>-2,425</b>

2017-18 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		39,439		50,629		15,186		18,033
Indirect Employees (Non DBS)	31%	757	42%	1,023	12%	293	15%	373
Indirect Employees (DBS)	0%	0	66%	16,896	0%	0	34%	8,604
Premises Related	31%	0	42%	0	12%	0	15%	0
Transport Related	31%	503	42%	681	12%	195	15%	248
Unmet Demand Survey	100%	0	0%	0	0%	0	0%	0
Driver Assessments/Checks	0%	0	66%	21,289	0%	0	34%	10,841
Supplies and Services	31%	8,698	42%	11,764	12%	3,365	15%	4,288
Support Services	31%	19,282	42%	26,077	12%	7,459	15%	9,506
Management Overhead	31%	20,328	42%	27,491	12%	7,863	15%	10,021
<b>Total Expenditure</b>		<b>89,008</b>		<b>155,850</b>		<b>34,360</b>		<b>61,915</b>
<b>Total Income</b>		<b>-92,130</b>		<b>-153,057</b>		<b>-32,873</b>		<b>-63,400</b>
<b>Total (Surplus) / Deficit</b>		<b>-3,122</b>		<b>2,792</b>		<b>1,487</b>		<b>-1,484</b>
<b>Total Three-Year (Surplus) / Deficit</b>		<b>3,896</b>		<b>20,460</b>		<b>134</b>		<b>4,199</b>



## Appendix 4 - Licence Fee Trading Accounts 2015-2018

### Licence Fee - Three Year Accounts

2015-16 Financial Year Actual						
CIPFA Standard Subjective	Sex Establishments		Street Trading (Legal)		Gambling Act	
	Apportionment	Allocation	Apportionment	Allocation	Apportionment	Allocation
	%	£	%	£	%	£
Direct Employees		12,452		25,414		19,187
Indirect Employees	4%	82	8%	187	5%	124
Premises	4%	6	8%	14	5%	9
Transport	4%	25	8%	57	5%	37
Supplies and Services	4%	628	8%	1,435	5%	948
Support Services	4%	4,103	8%	9,370	5%	6,193
Management Overheads	4%	3,004	8%	6,860	5%	4,534
<b>Total Expenditure</b>		<b>20,300</b>		<b>43,336</b>		<b>31,033</b>
<b>Total Income</b>		<b>-25,900</b>		<b>-63,116</b>		<b>-38,647</b>
<b>Total (Surplus) / Deficit</b>		<b>-5,600</b>		<b>-19,780</b>		<b>-7,615</b>

2016-17 Financial Year Forecast						
CIPFA Standard Subjective	Sex Establishments		Street Trading (Legal)		Gambling Act	
	Apportionment	Allocation	Apportionment	Allocation	Apportionment	Allocation
	%	£	%	£	%	£
Direct Employees		11,782		24,633		18,054
Indirect Employees	4%	21	8%	48	5%	32
Premises	4%	0	8%	0	5%	0
Transport	4%	21	8%	48	5%	32
Supplies and Services	4%	144	8%	328	5%	217
Support Services	4%	8,360	8%	19,093	5%	12,619
Management Overheads	4%	3,968	8%	9,063	5%	5,990
<b>Total Expenditure</b>		<b>24,296</b>		<b>53,213</b>		<b>36,944</b>
<b>Total Income</b>		<b>-29,600</b>		<b>-56,580</b>		<b>-38,946</b>
<b>Total (Surplus) / Deficit</b>		<b>-5,304</b>		<b>-3,367</b>		<b>-2,002</b>

2017-18 Financial Year Budget						
CIPFA Standard Subjective	Sex Establishments		Street Trading (Legal)		Gambling Act	
	Apportionment	Allocation	Apportionment	Allocation	Apportionment	Allocation
	%	£	%	£	%	£
Direct Employees		11,899		24,878		18,233
Indirect Employees	4%	21	8%	48	5%	32
Premises	4%	0	8%	0	5%	0
Transport	4%	21	8%	49	5%	32
Supplies and Services	4%	146	8%	334	5%	221
Support Services	4%	8,527	8%	19,474	5%	12,871
Management Overheads	4%	4,008	8%	9,153	5%	6,050
<b>Total Expenditure</b>		<b>24,623</b>		<b>53,937</b>		<b>37,439</b>
<b>Total Income</b>		<b>-27,040</b>		<b>-56,580</b>		<b>-38,946</b>
<b>Total (Surplus) / Deficit</b>		<b>-2,417</b>		<b>-2,643</b>		<b>-1,506</b>

<b>Total Three-Year (Surplus) / Deficit</b>		<b>-13,322</b>		<b>-25,791</b>		<b>-11,123</b>
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# LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

## Agenda Item 18

Brighton & Hove City Council

<b>Subject:</b>	<b>Street trading exclusion zones for schools - Street Trading Policy Review</b>		
<b>Date of Meeting:</b>	<b>24 November 2016</b>		
<b>Report of:</b>	<b>Director of Neighbourhoods, Housing and Communities</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Jim Whitelegg, Licensing Manager</b>	<b>Tel: 01273 292438</b>
	<b>Email:</b>	<a href="mailto:Jim.whitelegg@brighton-hove.gcsx.gov.uk">Jim.whitelegg@brighton-hove.gcsx.gov.uk</a>	
<b>Ward(s) affected:</b>	<b>All</b>		

### FOR GENERAL RELEASE

#### 1. SUMMARY AND POLICY CONTEXT

- 1.1 The Council's Street Trading Policy was set by Members at Licensing Committee after extensive consultation in November 2009 and was last considered at Licensing Committee on the 21<sup>st</sup> November 2013.
- 1.2 At the June 2016 Licensing Committee (Non-Licensing Act 2003) the Committee considered a letter from Councillor Peltzer-Dunn regarding a review of the Council's Street Trading Policy to consider whether a street trading exclusion zone could be introduced around schools in the interest of road safety and healthy eating. A copy of Councillor Peltzer-Dunn's letter is attached in Appendix 1. The Committee requested that a further report be brought forward to a future meeting of the committee assessing the issue of mobile street traders near schools.

#### 2. RECOMMENDATIONS

- 2.1 That the Committee notes the contents of this report and decided whether to ask officers to consult on changing the Street Trading Policy to introduce a school exclusion zone for street trading that the Committee notes the contents of this report and decides whether to ask officers to consult on changing the Street Trading Policy to introduce a school exclusion zone for street trading.
- 2.2 That officers should continue to monitor trends of applications/complaints and illegal activity to inform future policy.

#### 3. RELEVANT BACKGROUND INFORMATION /CHRONOLOGY OF KEY EVENTS

- 3.1. The regulation of street trading by consents covers infrequent, itinerant trading. There is no right of appeal against refusal and so it is vital that licensing authorities behave in a fair and reasonable manner. An established street trader would have a reasonable expectation that his/her consent would continue. Street trading consent regulations' primary purpose is to prevent obstruction of the street or danger to persons using it, or nuisance or annoyance to people using the street or otherwise. This department promotes diet, health and local food issues including engagement with school children by its healthy awards scheme and the recently launched Sugar Smart City initiative. Using street trading regulations to promote healthy food, although appealing, is not likely to be proper use of the Regulatory controls.
- 3.2. The Licensing Committee considered a report into possible "exclusion" zones around schools in 2009 and after extensive consultation it was felt, on balance, that there was no justification to interfere with this legitimate business. The Licensing Committee decided that using street trading regulations to promote healthy food, although appealing, may not be a proper use of the regulatory controls. A recent case in North Lanarkshire ruled that a ban on 'burger vans' selling within 250 metres of schools was not lawful on grounds of diet and health.
- 3.3. A summary of complaints relating to street trading and councillor enquiries has been compiled and can be found below.

Complaints 01.04 - 31.03	Illegal	Obstruction	Noise/Odour/Litter	App Enquiries	Misc	Schools
Apr 2016 - 16/09/2016	13	3	2	5	5	2
2015 - 2016	13	8	0	21	16	1
2014 - 2015	16	14	3	13	22	0

Cllr Enquiries	Illegal	Obstruction	App Enquiry	Misc	School
2016	0	0	0	0	2
2015	1	1	1	0	1
2014	0	0	1	4	0

The figures include complaints relating to Upper Gardner and George Street markets. The complaints about obstruction relate to traders obstructing the highway, pavements, parking bays or blocking access for residents/businesses and cycle lanes. No complaints related to schools, except for the Councillor enquiries in 2015/16 which related to concerns around obstruction and access to ice cream for school children. Officers investigated by visiting and monitoring the area around schools and contacting the schools. However, no responses were received from the schools and Highways deemed it not to be an obstruction where an ice cream van was operating near a school. We have no record of obstruction or safety incidents caused by street traders operating close to schools.

Where a trader is found to be causing a nuisance, obstruction or danger to the public the licensing team will consider revoking the street trading permit.

- 3.4. With regard to road safety, officers have consulted with colleagues in Highways and the Road Safety Team with regard to the specific question of school exclusion zones for street trading. The Highways Enforcement Team reported that street trading would not normally be considered highway obstruction as it would be seen as a reasonable use of the public highway.
- 3.5. The Road Safety Team (Accident Investigation & Prevention) is not aware of any incidents involving street traders near schools. The Road Safety Team consulted the South East Accident Reduction working group (local authorities in the South) and found that no exclusion zones around schools exist.
- 3.6. Changing the Street Trading Policy would require an extensive consultation exercise which would have resource implications and there would need to be valid grounds for triggering such a review. The basis for such change would need to be appropriate and lawful.

### **Current street trading process**

- 3.7. The city centre streets, with a few exceptions, are prohibited streets. There are five static pitches within the City Centre (Zone A), mainly off Western Rd Brighton (Castle Street, Clarence Square, Dean Street, Crown Street and Marlborough Street) where trading is permitted. Outside of the city centre (Zone B), traders with a consent can trade on the highway, providing they are not causing a nuisance, obstruction or danger to the public. The Council's street trading policy can be found from the following link <http://www.brighton-hove.gov.uk/content/business-and-trade/licensing-and-gambling/street-trading> and in Appendix C, which sets out in a table the type of trading permitted in certain areas of the city.
- 3.8. The Seafront area including Grand Junction Road and Kings Road is designated a consent street but is outside the trading policy established by the Council and control of that area is the responsibility of the Seafront Office.
- 3.9. Officers in Environmental Health and Licensing issue permits for street trading. Any appeals against officer's decisions are heard by the Licensing Committee (Non-Licensing Act 2003).
- 3.10. A street market is held each Saturday in Upper Gardener Street between the hours of 07.00 and 17.00. Occasional markets are held in Bartholomew Square and George Street Hove. New Road and Black Lion Street in Brighton need to be authorised for street markets.
- 3.11. Street artists and hot chestnut sellers are permitted to operate in East Street, Duke Street, Bartholomew Square and Market Street.
- 3.12. Ice cream and burger vans are issued permits by the Licensing Team giving them consent to trade as "Mobile Street Trading". This is allowed in Zone B (outside of the city centre), with the exception of Parks & Gardens and within 1 mile of the Falmer Community Stadium therefore it gives mobile trading a wide area to trade from. There are no stipulations of roads but only that

trading takes place within Zone B in accordance with the Street Trading Policy. We have 18 Zone B permits currently issued.

- 3.13. There are areas throughout the city in which street trading is prohibited. These areas are generally main thoroughfares or areas in the city centre and run from the western boundary of Brighton & Hove in Vale Road, Portslade, along Portland Road, Sackville Road, Church Road, Western Road, Montpelier Road, Chatham Place, Viaduct Street, Upper Lewes Road, then southwards down Lewes Road, Albion Street and Grand Parade before heading East along Edward Street, Eastern Road and finishing in Arundel Road. Street trading is also prohibited within 1 mile of the Community Stadium, but excluding council owned public spaces, which would remain undesignated.

### **Commentary on street trading policy**

- 3.14. Historically, parks have remained undesignated to allow Leisure officers flexibility in permitting outdoor events. The Seafront has been a consent street managed on a day to day basis by Seafront officers. Economic development members and officers are considering corporate market policies and officers are working to ensure corporate market policies and street trading policy work in harmony.

- 3.15. For members assistance and as reported last time:

Street trading is selling articles on the street, including exposing or offering articles for sale. It does not include provision of services, like henna tattooing, hair braiding, tarot reading etc.

The following activities are not subject to street trading controls:

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

Controls only apply to the street or other public places.

## 4. CONSULTATION

- 4.1 If the Committee decide that street trading should be reviewed, a full and measured consultation should involve residents (via the council's website), residents associations and Community Associations including the North Laine Community Association, businesses (including individual street traders) in Brighton & Hove, Police and Highway Authority, Economic Development and Regeneration regarding the corporate markets policy, Tourism, Events Office, Seafront Office (including Seafront Trader Association), Trading Standards, City Clean, Legal, Finance, Ward Councillors, City Centre and Hove Business Fora, Trader Associations including North Laine Traders Association, Upper Gardener Street Traders Association, Brighton & Hove Albion Football Club, and the Education Authority (Children's Trust).

## 5 FINANCIAL & OTHER IMPLICATIONS:

### 5.1 Financial Implications:

Street Trading fees are set at a level that officers reasonably believe will cover the costs of administering the service. Any costs associated with the Street Trading Policy will be met from within existing Licensing budgets. Fees are set as part of the annual Council budget setting process.

Finance Officer Consulted: Michael Bentley Date: 18/10/16

### 5.2 Legal Implications:

Section 3 of the Local Government (Miscellaneous Provisions) Act 1982 enables a district council in England and Wales to adopt a code for the regulation and control of street trading within its area and the Council has adopted Schedule 4 of the Act which governs street trading. Schedule 4 permits the Council to designate by resolution streets as prohibited, licence or consent streets. There is no obvious mechanism for creating exclusion zones, but part of a street could be re-designated a prohibited street. There is a statutory procedure for this involving publication of a notice in a newspaper and inviting representations which must then be considered. There should be good justification for changing the designation of streets. Challenge might reasonably be expected from those adversely affected by changes to street designation both on administrative law and human rights grounds.

Lawyer Consulted: Rebecca Sidell Date: 14.10.16

### 5.3 Equalities Implications:

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

### 5.4 Sustainability Implications:

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

5.5 Crime & Disorder Implications:

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

5.6 Risk and Opportunity Management Implications:

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

5.7 Corporate / Citywide Implications:

Street trading represents some traditional, historic heritage

**SUPPORTING DOCUMENTATION****Appendices:**

Appendix A – Councillor Peltzer-Dunn letter and response  
Appendix B – Council’s Street trading Policy

**Documents In Members’ Rooms:**

None

**Background Documents:**

None





**Councillor Garry Peltzer Dunn**

Brighton & Hove City Council  
c/o King's House  
Hove  
BN3 2LS

The Chief Executive  
Brighton & Hove City Council

**Date:** 29 April 2016  
**Our Ref:** GPD

Dear Chief Executive,

**RE: ZONE B STREET TRADING REVIEW**

I should like this letter to be referred to the Licensing Committee in June for consideration.

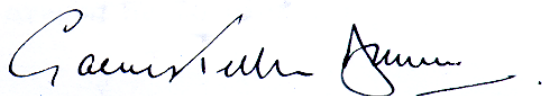
I have previously raised my concern about a serious road safety problem that has arisen outside the entrance to West Hove Junior School and other schools where it appears that street traders have sited their ice cream vans in very close proximity to the school's exit. This results in the pavement being blocked and children and adults being forced out into School Road placing them in danger during the very busy time when the children leave school.

Provided the traders van is in a legal parking space no action can be taken as they are not breaking any Council regulations for Street trading within Zone B of the scheme.

Over the past years there has been increasing debate over the unhealthy nature of school children's eating habits and this is certainly not helped by the proximity of street traders vans such as that above.

I am aware that a review was undertaken in 2009 in respect of the possibility of having exclusion zones and that the Street Trading Policy was agreed in 2013. However, I believe that in the interests of both road safety and on health grounds it would be appropriate for the committee to request officers to undertake a review of the Council's Street Trading Policy within Zone B to prohibit such street trading within a minimum of 50 metres of a School's entrance/exit.

With best wishes



**Cllr Garry Peltzer Dunn**

Tel; 01273 291186  
Email: [garry.peltzerdunn@brighton-hove.gov.uk](mailto:garry.peltzerdunn@brighton-hove.gov.uk)

Conservative Member for Wish Ward

## **Chairs Response**

“In 2009 the Licensing Committee considered a report into possible “exclusion” zones around schools in 2009 and after extensive consultation the Licensing Committee decided that using street trading regulations to promote healthy food, although appealing, may not be proper use of the regulatory controls. There has been a recent case in North Lanarkshire which ruled that a ban on Burger vans selling within 250 metres of schools was not lawful on grounds of diet and health.

Street trading consent regulations’ primary purpose is to prevent obstruction of the street or danger to persons using it, or nuisance or annoyance to people using the street or otherwise. The department promotes diet, health and local food issues including engagement with school children by its healthy awards scheme and the recently launched Sugar Smart City initiative. Using street trading regulations to promote healthy food, although appealing, is not likely to be proper use of the Regulatory controls.”

## **Street Trading Consent Zone B Local Government (Miscellaneous Provisions) Act 1982**

The Council’s Street Trading Policy was set by Members at Licensing Committee after extensive consultation and was last considered at Licensing Committee on the 21<sup>st</sup> November 2013.

The city centre streets, with a few exceptions, are prohibited streets. There are five static pitches within the City Centre (Zone A), mainly off Western Rd Brighton, where trading is permitted. Outside of the city centre (Zone B), traders with a consent can trade on the highway, providing they are not causing a nuisance, obstruction or danger to the public. The Council’s street trading policy can be found from the following link, <http://www.brighton-hove.gov.uk/content/business-and-trade/licensing-and-gambling/street-trading> which sets out in a table the type of trading permitted in certain areas of the city.

Ice Cream Vans are issued permits by the Licensing Team giving them consent to trade as “Mobile Street Trading”. Mobile Street trading is allowed in Zone B (outside of the city centre), with the exception of Parks & Gardens and within 1 mile of the Falmer Community Stadium therefore it gives mobile trading a wide area to trade from. There are no stipulations of roads but only that trading takes place within Zone B in accordance with the Street Trading Policy.

In order for any proposed Policy change to go to Licensing Committee, we would need significant input from the public in the form of a petition, deputation or councillor question for Committee to agree to begin extensive consultation on the proposed change. The basis for such change would need to be appropriate and lawful.

It is worth noting that the Licensing Committee considered a report into possible “exclusion” zones around schools in 2009 and after extensive consultation the Licensing

Committee decided that using street trading regulations to promote healthy food, although appealing, may not be proper use of the regulatory controls. There has been a recent case in North Lanarkshire which ruled that a ban on Burger vans selling within 250 metres of schools was not lawful on grounds of diet and health. Please see the link to the BBC report: <http://www.bbc.co.uk/news/uk-scotland-glasgow-west-34983735>

The regulation of street trading by consents covers infrequent, itinerant trading. There is no right of appeal against refusal and so it is vital that licensing authorities behave in a fair and reasonable manner. An established street trader would have a reasonable expectation that his/her consent would continue. Street trading consent regulations' primary purpose is to prevent obstruction of the street or danger to persons using it, or nuisance or annoyance to people using the street or otherwise. The department promotes diet, health and local food issues including engagement with school children by its healthy awards scheme and the recently launched Sugar Smart City initiative. Using street trading regulations to promote healthy food, although appealing, is not likely to be proper use of the Regulatory controls.



## STREET TRADING POLICY

Consent Street	Purpose
Zone A	
City Centre Static consent sites (Dean Street, Marlborough Street, Castle Street, Crown Street, Western Road, Clarence Square)	General trading
Upper Gardner Street	Saturday market
Dukes Street, Market Street	Hot chestnut and other traditional Christmas trading activity
East Street, Dukes Street, Market Street, George Street Hove	Street artists who produce portraits on the street
George Street Hove, Black Lion Street, New Road Jubilee Street	Occasional markets including ethnic, farmers and crafts etc.
Zone B	
Area outside city centre	Mobile and static traders, both as regular occupation and community events and markets

Streets south of Vale Road, Portslade, along Portland Road, Sackville Road, Church Road, Western Road, Montpelier Road, Chatham Place, Viaduct Street, Upper Lewes Road, then southwards down Lewes Road, Albion Street and Grand Parade before heading East along Edward Street, Eastern Road and finishing in Arundel Road and streets within 1 mile radius from the new Falmer Community Stadium shall be prohibited streets with the exception of Kingsway, Kings Road and Seafront, Castle Street, Clarence Square, Crown Street, Dean Street, Marlborough Street, Western Road, Upper Gardner Street, Bartholomew Square, George Street Hove, New Road, Black Lion Street, Jubilee Street, East Street, Duke Street, and Market Street which shall be designated consent streets, and the Council's Parks and Gardens which shall be undesignated.

Streets North of Vale Road Portslade and along Portland Road, Sackville Road, Church Road, Western Road, Montpelier Road, Chatham Place, Viaduct Street, Upper Lewes Road, then southwards down Lewes Road, Albion Street and Grand Parade before heading East along Edward Street, Eastern Road and finishing in Arundel Road shall be consent streets, except that the Council's Parks and Gardens will be undesignated.

## Clarification

### Times of trading:

Upper Gardner Street	7am – 5pm
City Centre	8 am – 6pm
Zone B	No times set

- A waiting list will be administered where sites or types of street trading are oversubscribed.
- There will be no transfer of consents, no joint consents, preference will be given to local residents and consents will be issued not exceeding 12 months.
- Consent holders shall be fit and proper, the activity will cause no danger, obstruction, nuisance or annoyance to people in the vicinity and will leave 2m unobstructed footway.
- Preference will be given to existing traders at existing sites at renewal.
- Traders will ensure suitable refuse storage and remove refuse at the end of trading (with the exception of Upper Gardner Street).
- Traders will wear identity badges issued by the Council.
- Traders will take reasonable fire safety measures.
- Consent will only be issued following receipt of appropriate fee. Fees shall be payable quarterly.
- If the site is temporarily unavailable, it will be relocated to a nearby site or suspended and a proportion of the fee remitted.

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 :**  
**STANDARD CONDITIONS FOR STREET TRADING**

- A. The consent may not be transferred and the Trader shall not permit any person to exercise the consent in his/her absence unless that person is employed by the consent holder and is at least seventeen years of age. The consent holder shall not employ more than two persons at any one time to exercise the consent in the absence of the holder and any contravention of the standard conditions forming part of the consent by these persons shall be deemed to have been committed by the consent holder.
- B. The Trader shall not stand or use any stall, barrow, basket, vehicle or other receptacle in any street except such as are specified in the consent. Such trading receptacle, including vehicle shall be removed from the trading site at the end of each trading day
- C. The Trader shall not sell, expose or offer for sale any articles on days or at times other than those specified in the consent.
- D. The Trader shall not place, store or sell, expose or offer for sale any article outside the trading area marked out at the specified site (with the exception of Upper Gardner Street).
- E. The Trader shall at all times whilst trading provide a suitable receptacle for rubbish and litter and remove the rubbish and litter from the site at the end of each days trading. Such rubbish and litter is not to be placed in municipal litter bins. In Upper Gardner Street in lieu of this condition being complied with the Council will offer a refuse collection service upon payment of an appropriate fee.
- F. The Trader shall operate in a manner which causes no nuisance to the Council or to the general public.
- G. The Trader shall at all times whilst trading wear in a prominent position an identity badge provided by the Council. In addition, for town centre street trading consents, the consent, or copy thereof, shall be displayed on the stall/mobile vehicle.
- H. The Trader shall be insured against any claim in respect of third party liability whilst trading under a consent. No consent will be issued until a current policy has been produced to the Director of Environment and the Trader shall produce evidence of such insurance to an authorised officer of the Council within seven days of the officer's request.
- I. Where there is a potential ignition source present including cooking facilities, a 2kg dry powder extinguisher which complies with the standards set out in BS 5423: 1987 must be provided.
- J. Where hot fat cooking facilities are provided a fire blanket should be provided and so positioned as to allow the blanket to be withdrawn easily and quickly.
- K. Streets within 1 mile from Falmer Community Stadium shall be prohibited streets.

## **GUIDELINES ON THE RELEVANCE OF CONVICTIONS**

### **General Principles:**

1. Each case will be decided on its own merits.
2. A person with a current conviction for serious crime need not be permanently barred from registration but should be expected to remain free of conviction for 3 to 5 years, according to the circumstances, before an application is entertained. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. However, the overriding consideration should be the protection of the public.
3. The following examples afford a general guide on the action to be taken where convictions are admitted:

#### **Offences involving violence**

- It is imperative that applicants with convictions for offences involving violence are considered carefully. When applicants have convictions for causing grievous bodily harm, wounding or assault, or even more serious offences involving violence, at least five years should elapse before an application is considered.

#### **Drug- related offences**

- An isolated conviction for a drug offence, whether for unlawful possession only or involving the supply of controlled drugs, need not necessarily debar a candidate from registration, provided the applicant has at least three years free of convictions or five years since detoxification if he/she was an addict.

#### **Indecency offences**

- Applicants with recent indecency offences would normally be debarred.

#### **Dishonesty**

- Convictions for isolated minor offences should not debar an applicant, but in cases involving serious theft or fraud at least three years should elapse before an application is considered. When offences of dishonesty have been accompanied by violence, it is suggested that at least five years should elapse before registration.







# LICENSING COMMITTEE (NON-LICENSING ACT 2003)

## Agenda Item 19

Brighton & Hove City Council

<b>Subject:</b>	<b>Hackney Carriage &amp; Private Hire Driver Enforcement and Monitoring</b>		
<b>Date of Meeting:</b>	<b>24 November 2016</b>		
<b>Report of:</b>	<b>Director Neighbourhoods Communities and Housing</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Martin Seymour</b>	<b>Tel:</b> 01273 296659
	<b>Email:</b>	<a href="mailto:Martin.seymour@brighton-hove.gcsx.gov.uk">Martin.seymour@brighton-hove.gcsx.gov.uk</a>	
<b>Ward(s) affected:</b>	<b>All</b>		

### FOR GENERAL RELEASE

#### 1. SUMMARY AND POLICY CONTEXT

- 1.1. This report is to update Members on enforcement action taken against Hackney Carriage & Private Hire Drivers and Applicants between July 2016 and October 2016.

#### 2. RECOMMENDATIONS

- 2.1. That Members note the contents of this report and that officers should continue to take action as appropriate.

#### 3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 Legislation in relation to the Town Police Clauses Act 1847 Local Government (Miscellaneous Provisions) Act 1976 which applies to both hackney carriages and private hire vehicles is enforced by the local authority. Non criminal enforcement can also be effected by means of action taken against the licence held by the person who has transgressed.
- 3.2 The council can suspend, revoke or refuse a hackney carriage or private hire vehicles and/or driver licences. However, a driver licence cannot be suspended and then revoked at a later date such as at the conclusion of a prosecution. Other actions are available to officers such as verbal or written warnings which can be applied in line with the Councils [Licensing Enforcement Policy](#).
- 3.3 The following actions were taken against drivers / applicants between 01 July 2016 and 31 October 2016.

<b>Licence Type</b>	<b>Date</b>	<b>Action</b>	<b>Reason</b>
Private Hire Licence	05.07.2016	Suspension	Allegations were made regarding a 16 year old girl of inappropriate behaviour by the driver. Driver has not been charged but put on Police Bail with conditions.
Hackney Carriage and Private Hire Dual Licence	08.07.2016	Suspension	Advised by GP not to drive due to pending medical investigations.
New Applicant	19.07.2016	Warning	Previous Licence revoked following conviction for Driving a Motor Vehicle with Excess Alcohol. Now 3 years free of conviction and more than 12 months elapsed since restoration of DVLA Licence
Private Hire Licence	08.08.2016	1 Month Suspension	Taking Bookings without holding a Private Hire Operator Licence
Hackney Carriage and Private Hire Dual Licence	10.08.2016	Refusal to renew licence	DBS certificate showed a historical rape allegation (Acquitted at Trial) An appeal against the Council's decision has been made at the magistrates court – ongoing
Private Hire and Hackney Carriage Licence	18.08.2016	Suspension	Driver waiting results of medical tests following fit.
New Applicant	24.08.2016	Warning	Previously revoked in 2012 following a conviction. He is now 4 years post conviction with no further cautions / convictions on his record.
Hackney Carriage Licence	09.09.2016	Revocation	The Hackney Carriage Office was made aware of incidents of domestic violence. An appeal against the Council's decision has been made at the magistrates court
Private Hire Licence	19.09.2016	Suspension	Currently does not meet the DVLA Group 2 medical criteria.
Hackney Carriage and Private Hire Dual Licence	20.09.2016	Suspension	Currently does not meet the DVLA Group 2 medical criteria.
Hackney Carriage and Private Hire Dual Licence	27.09.2016	Refusal to renew licence	Initial renewal application was found to be invalid. Second application to renew was after licence had expired so not possible to renew.
Hackney Carriage and Private Hire Dual Licence	11.10.2016	Suspension	Currently does not meet the DVLA Group 2 medical criteria.
Private Hire Licence	18.10.2016	Revocation	Licence revoked for non-payment of Licence fee
Hackney	18.10.2016	Refusal to	Convicted of 3 Sexual Offences and failing

Carriage and Private Hire Dual Licence		renew licence	to provide a specimen of breath whilst driving and driving while uninsured.
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#### 4. COMMUNITY ENGAGEMENT AND CONSULTATION

4.1. None.

#### 5. FINANCIAL & OTHER IMPLICATIONS:

##### Financial Implications:

5.1. This report is for information purposes only, so there are no financial implications.

*Finance Officer Consulted:* Michael Bentley *Date:* 18/10/16

##### Legal Implications:

5.2 There are no direct legal implications.

*Lawyer Consulted:* Rebecca Sidell *Date:* 14.10.2016

##### Equalities Implications:

5.3 None.

##### Sustainability Implications:

5.4 None.

##### Crime & Disorder Implications:

5.5 Contained in the body of the report.

#### 6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

6.1. None – for information only.

#### 7. REASONS FOR REPORT RECOMMENDATIONS

7.1. For information only.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

None.

### **Documents in Members' Rooms**

1. None.

### **Background Documents**

1. None.