



Brighton & Hove
City Council

Licensing Committee

(Non-Licensing Act 2003 Functions)

Title:	Licensing Committee (Non Licensing Act 2003 Functions)
Date:	23 November 2017
Time:	3.00pm
Venue	Hove Town Hall, Council Chamber
Members:	Councillors: O'Quinn (Chair), Morris (Deputy Chair), Hyde (Opposition Spokesperson), Deane (Group Spokesperson), Bell, Cattell, Cobb, Gilbey, Hill, Horan, Lewry, Page, Phillips, Simson and Wares
Contact:	Penny Jennings Democratic Services Officer 01273 291065 penny.jennings@brighton-hove.gov.uk

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Democratic Services: Meeting Layout Licensing Cttee

Head of Department Councillor O'Quinn (Chair) Lawyer Democratic Services Officer

Councillor Morris (Deputy Chair)

Councillor Hyde (opposition Spokes)



Councillor Cattell

Councillor Bell



Councillor Horan

Councillor Cobb



Councillor Hill

Councillor Simson



Councillor Gilbey

Councillor Lewry



Councillor Wares



Member Speaking

Public Speaker

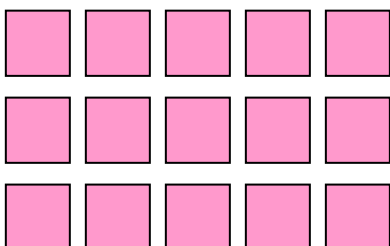
Councillor Deane (Spokes)

Councillor Page

Councillor West

Public Seating

Press



AGENDA

9 PROCEDURAL BUSINESS

(a) Declaration of Substitutes: Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.

(b) Declarations of Interest:

- (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.

10 MINUTES OF THE PREVIOUS MEETING

1 - 10

Minutes of the meeting held on 29 June 2017 (copy attached)

11 CHAIR'S COMMUNICATIONS

12 CALLOVER

- (a) Items (15 – 20) 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.

13 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 16 November 2017;
- (c) **Deputations:** to receive any deputations submitted by the due date of 12 noon on 16 November 2017.

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 STREET TRADING POLICY REVIEW

11 - 32

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

Contact Officer: *Jim Whitelegg*

Tel: 01273 292438

Ward Affected: *All Wards*

16 LICENCE FEES 2018/2019

33 - 50

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

Contact Officer: *Jim Whitelegg*

Tel: 01273 292438

Ward Affected: *All Wards*

17 PRIVATE HIRE PLATE EXEMPTION POLICY

51 - 62

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

Contact Officer: *Martin Seymour*

Tel: 01273 296659

Ward Affected: *All Wards*

18 HACKNEY CARRIAGE UNMET DEMAND REPORT

63 - 68

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

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Contact Officer: Martin Seymour
Ward Affected: All Wards

Tel: 01273 296659

19 HACKNEY CARRIAGE & PRIVATE HIRE DRIVER ENFORCEMENT AND MONITORING 69 - 80

Report of the Executive Director, 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

PUBLIC INVOLVEMENT

Provision is 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.

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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) or email democratic.services@brighton-hove.gov.uk

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

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Date of Publication - Wednesday, 15 November 2017

BRIGHTON & HOVE CITY COUNCIL

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

3.00PM 29 JUNE 2017

COUNCIL CHAMBER, HOVE TOWN HALL, NORTON ROAD, HOVE, BN3 3BQ

MINUTES

Present: Councillors O'Quinn (Chair), Morris (Deputy Chair), Deane (Group Spokesperson), Bell, Cattell, Cobb, Gilbey, Hill, Horan, Janio, Lewry, Page, Phillips, Simson and Wares

PART ONE

1 PROCEDURAL BUSINESS

1a Declarations of Substitutes

1.1 Councillor Janio was present in substitution for Councillor Hyde.

1b Declarations of Interest

1.2 There were no declarations of interests in matters listed on the agenda.

1c Exclusion of Press and Public

1.3 The Committee considered whether the press and public should be excluded from the meeting during the consideration of any of the items listed on the agenda.

1.4 **RESOLVED:** That the press and public be not excluded from the meeting during consideration of any items contained in the agenda.

2 MINUTES OF THE PREVIOUS MEETING

RESOLVED – That the minutes of the Licensing Committee (Licensing Act 2003 Functions) Meeting held on 2 March 2017 be agreed and signed as a correct record.

3 CHAIR'S COMMUNICATIONS

Update – Taxi Forum / Uber Taxis

- 3.1 The Chair stated that on the taxi front it had been less antagonistic since the last meeting of the Committee. The Taxi Forum meeting which had taken had ran relatively smoothly and although many complaints continued to be received about Uber taxis parking in taxi ranks and Uber taxis from as far away as Birmingham plying their trade here, there had not been quite the same level of hostility as before. That could be the calm before the storm, however, as Uber's licence was due to be renewed in November. The planned National Taxi demonstration had not taken place as planned – it had been postponed- because of the Manchester terrorist attack which had occurred the previous day. It should be noted that taxi drivers in Manchester had been of great assistance to those who were affected by the attack on the night – ensuring that people got home safely, often without charging for their services. The union had not as yet, provided information regarding when the Taxi Demonstration would now be but the Chair suspected it might be in the autumn.
- 3.2 The Chair, was also able to confirm that a meeting had eventually taken place with representatives of Transport for London (Tfl) and that it had been a very productive meeting. As a result of the meeting arrangements were now in place for a number of joint enforcements over the coming months. The Chair was sure that this will be welcomed by Brighton and Hove licensed taxi drivers, as it helped to create a level playing field.
- 3.3 A training session about taxis regulations and related issues had been organised for Members and would take place at the end of September although the date had yet to be confirmed. It was intended that this would be helpful in increasing member's awareness and understanding of the present situation in the city.
- 3.4 **RESOLVED** – That the content of the Chair's Communications be received and noted.

4 PUBLIC INVOLVEMENT

4a Petitions

4.1 There were none.

4b Written Questions

4.2 There were none.

4c Deputations

4.3 There were none.

5 MEMBER INVOLVEMENT**5a Petitions**

5.1 There were none.

5b Written Questions

5.2 There were none.

5c Letters

5.3 A letter had been submitted by Councillor Mac Cafferty in the following terms and as set out in the agenda:

“I write to express my concern at the council’s current policy position with regard to on-street trading. I have been in regular contact with residents of Selborne Road in my ward since early January about a particular street trader.

My discussion with my residents echoes the frustration expressed by other Councillors at licensing committee in March. I welcomed the moves at that committee to begin the necessary discussion about a fresh look at street licensing including the new approach outlined viz: *“2.3 That the committee requests officers to explore options for a review of the street trading policy with a view to changing the designation of streets in zones A and B and consider options to prevent or restrict traders from trading on yellow lines or otherwise (potentially) contravening any road traffic regulations, and bring a report to the next committee for consideration.”*

I have been in regular contact with residents and raised queries with the city’s parking highway, enforcement, environmental health and licensing teams, however nothing has changed sadly. Please find attached Appendix A my email to council officers from 9th March which outlines some of the overarching concerns we continue to have. The same trader has been parked in a pay and display parking zone now for over half a year.

Residents are exasperated by what they see as a faulty policy framework with little or no effective enforcement mechanisms. The trader in question is trading at all times of the day and night; is causing nuisance in parking for weeks at an end- without the trading receptacle being removed from the trading site at the end of each trading day; and further has taken no effort to provide for collection of rubbish. They have been able to do this because of the lack of clarity over zoning including the attitude of enforcing officers to the edge of the zone.

I have a number of outstanding questions around the policy:

- What evidence is currently required by council officers to demonstrate compliance with policy?
- What monitoring is undertaken about street traders complying with policy in Zone A?
- Under the existing policy is there a provision for rejection of street traders if they continue to cause problems for residents as outlined in the street trading policy?

In the circumstances I would argue the licensing authority should now consider much more robust policy which will be fairer for all- residents as much as street traders. At the very least it should include:

- Consideration of Zone A expansion;
- Or, at the very least, clearer policy for the edge of Zone A;
- Tougher rules and much clearer enforcement mechanisms for traders unprepared to follow policy, including transparent warning signals.
- Changing the designation of streets in zones A and B;
- Consideration of options to prevent or restrict traders from trading on yellow lines and contravening any road traffic regulations.”

5.3 The Chair, Councillor O’Quinn invited Councillor Mac Cafferty to speak to his letter. Councillor Mac Cafferty reiterated his concerns and having listened to all that had been said the Chair, responded in the following terms dealing with each of the concerns raised by Councillor Mac Cafferty in the order in which they had been put:

“Following a complaint the above procedure would be followed. The matter would be monitored by officers and the complainant may also be asked to keep a record, not only to be used in evidence but also to inform officers of the best time to monitor (also see answer above).

If an existing street trader was found to be breaching the Policy then the enforcement policy would be followed as outlined above. If a breach is witnessed then usually a warning notice is issued and any subsequent breach could lead to revocation or prosecution. If the breach is an appropriately serious case the licensing authority would look at straight revocation without the need to serve a warning notice

The Licensing Committee will consider a report to review the Street Trading Policy Item 6 on this afternoon’s agenda. Members will be asked to note the contents of the report and decide which of the following options (if any) to ask officers to initiate consultation on in order to change the Street Trading Policy.

(1) Consult on amending conditions so that trading cannot take place on yellow lines and/or otherwise contravene TROs (Traffic Regulation Orders) including parking restrictions. Legislation allows for the Council to vary the conditions of a street trading consent as they consider reasonably necessary. Conditions may specify trading time limits on yellow lines or parking restrictions, e.g. 30 minutes; and

(2) Consider re-designating some of the streets in Zones A & B. This would require a wholesale review of the policy with statutory provision to consult. A firm proposal with rational and identification of proposed consent streets to become prohibitive streets would be needed to go out to consultation. Therefore, resolve to set up an officer and member working group to consider this.

Selbourne Road Street Trader

This trader in question currently holds a valid Zone B street trading permit and as such can trade within Zone B providing they are not causing a nuisance, obstruction or danger to the public, as well as complying with the conditions of the permit. Since

receiving complaints relating to this trader, relevant council departments have investigated issues of nuisance, obstruction, parking and licensing breaches.

Licensing officers have monitored several times and a warning letter has been issued regarding not moving the vehicle from the trading site at the end of the trading day. Since that time officers have continued to monitor and no further breaches have been observed.

As well as holding a Zone B street trading permit the vehicle owner holds a trader's parking permit and residents parking permit allowing him to park in the residents' bay.

Our records show that since April 2017 no new concerns have been raised with this office regarding this trader, however any further complaints received will be investigated."

- 5.4 **RESOLVED** – That the contents of the letter received from Councillor Mac Cafferty and the response given to it be noted. It is also noted that a report entitled "Street Trading Policy Review" Item 6 on the agenda is to be considered and recommendations in respect of that matter agreed.

5d Deputations

- 5.5 The Committee were requested to consider the Notice of Motion prepared by the Green Group and referred from the meeting of Council on 6 April 2017 details of which were set out on the agenda and below:

"This council notes the damaging effects of diesel engine emissions to people's health and to the environment and would welcome accelerating initiatives that will reduce this harm and lead to cleaner air. This council resolves to:

(1a) Request the Environment, Transport & Sustainability Committee to call for a report taking into consideration;

(1b) Whether it would be possible to follow the example of Westminster City Council and introduce visitor parking differentials to incentivise diesel vehicle drivers not to enter the highest polluted areas of the city;

(1c) Options to enforce the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 in relation to vehicle idling offences;

(2) Request the Licensing Committee to consider calling for a report detailing the options to ensure that all new taxi licences issued under the council's policy of managed growth are for low emission vehicles only, and that all replacement taxis are low emission vehicles;

(3) To facilitate (2) above, this council requests the Chief Executive to write to Business Secretary, Greg Clark, requesting that financial assistance be made available to taxi drivers switching to more environmentally friendly vehicles, as announced at the recent opening of the new London Taxi Company factory in Coventry.”

- 5.6 The Chair, Councillor O’Quinn, invited Councillor Deane to speak in support of the Deputation Having heard all that had been said, Councillor O’Quinn responded as set out below:

“We have the Council’s Air Quality Action Plan which details a number of initiatives for improving air quality. We do not have a current taxi licensing emissions policy. However, we are looking at different initiatives including electric taxis, and some of the taxi fleet have had exhaust adaptations to reduce oxides of nitrogen emissions and this was facilitated using Department of transport funding. We also have an age policy for new and replacement vehicles.

An unmet demand survey is due to take place next year, as is a review of the Blue Book, so any changes regarding emissions could be incorporated at that stage. Any policy change would go to licensing committee for approval and we anticipate that air quality issues in relation to taxi fleet will be discussed at a future Licensing Committee.”

- 5.7 The Chair, Councillor O’Quinn, then opened the matter for Member discussion. Councillor Wares noted the Chair’s response and further proposed that a report responding to the issues raised and providing a further update be provided to the next scheduled meeting of the Committee. This was seconded by Councillor Page and the Committee concurred with the proposal.
- 5.8 **RESOLVED** – (1) That the contents of the Deputation and the response given be noted; and
- (2) That a report responding to the points set out in the Deputation be provided for consideration at the next scheduled meeting of the Committee.

A STREET TRADING POLICY REVIEW

- 6.1 The Committee considered a report of the Director of Neighbourhoods, Housing and Communities providing an update in response to decisions taken by the Committee at its meeting held in November 2016. At that time the Committee had requested officers to explore options for a review of the street trading policy with a view to changing the designation of streets in zones A and B and to consider options to prevent or restrict traders from trading on yellow lines or otherwise (potentially) contravening any road traffic regulations. This request had related primarily to councillor/resident/business enquiries into two mobile traders with Zone B permits trading close to the Zone A boundary of Church Road, Hove. One trader had been trading on double yellow lines and the other from a residents parking bay.
- 6.2 For members assistance it was confirmed that:

The regulation of street trading by consents covered infrequent itinerant trading. There was no right of appeal against refusal and so it was 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. The primary purpose of Street Trading consent regulations' was to prevent obstruction of the street or danger to persons using it, or nuisance or annoyance to people using the street or otherwise. The nature and extent of any consultation would depend on the change proposed and those affected, namely a wholesale review or varying conditions.

- 6.3 Councillor Janio referred to the proposed Conservative Group amendment which had been tabled prior to the meeting, this was seconded by Councillor Wares and sought to amend the recommendations set out below:

“Recommendations:

2.1 Agrees that consents for street trading will prohibit trading on double yellow lines and/or where other (Traffic Regulation Orders)TROs including parking restrictions exist.

2.2 Agrees that a working group be established comprising officers and a member of each political group to propose the establishment of exclusion zones to bring a report to the next committee for consideration.”

- 6.4 The Chair agreed that the proposed amendment would be considered during debate of the report and would be voted on when the Committee were considering the officer recommendations.
- 6.5 Councillor Deane sought clarification of the legality of vehicles parking and trading on double yellow lines. The Public Health Licensing Lead, Jim Whitelegg, explained a trading permit effectively suspended the restriction, however vehicles should not be parked in a bay unless/when they were not trading and that advice was taken from the highways team before deciding whether/what action might be appropriate.
- 6.6 Councillor Deane stated that she whilst accepting this it did seem somewhat perverse. Councillor Bell concurred stating that it appeared unfair to those who had purchased residents parking permits for example could be disadvantaged in this way. He considered it unfortunate that an officer was not present from highways in order to answer any questions arising and it was agreed that a representative would attend future scheduled meetings of the Committee.
- 6.7 Councillor Wares sought clarification regarding the consultation process as he was of the view that Members needed to determine what they were going to consult on before proceeding. Councillor Wares also sought clarification of the legal position in that respect.

- 6.8 The Legal Adviser to the Committee, Rebecca Sidell, advised that there was power to vary conditions but that consultation with those affected by the proposed changes and other relevant authorities was necessary before any decision to vary was made.
- 6.9 Councillor Page sought clarification regarding those who would need to be consulted and it was confirmed that both the public and street traders would need to be consulted.
- 6.10 The Conservative Group amendment was voted upon but was lost and Members then went to the vote on the substantive recommendations in the report.
- 6.11 **RESOLVED** – That consideration be given to re-designating some of the streets in Zones A & B and to specifying trading times on yellow lines or parking restriction. As a firm proposal would be required with rationale and identification of proposed consent streets to become prohibitive streets would be needed to go out to consultation.

6 HACKNEY CARRIAGE & PRIVATE HIRE DRIVER ENFORCEMENT AND MONITORING

- 7.1 The Committee considered a report of the Director of Neighbourhoods, Communities and Housing the purpose of which was to provide Members with an update on enforcement action taken against Hackney Carriage and Private Hire Drivers and Applicants between February and June 2017.
- 7.2 Councillor Simson stated that it was of great concern to her that some of the sanctions appeared to very light touch in that they did not appear to reflect the severity of the offences that had occurred. It was explained that the action taken was in line with agreed procedures set out in legislation.
- 7.3 Councillor Wares whilst accepting this to be the case stated that it would be useful for Members to receive details about that, otherwise they were considering the information provided in a vacuum. Councillors Cattell and Page concurred in that view, the Chair, Councillor O'Quinn also agreeing that it would be helpful for Members to receive this information separately from the meeting for in order for them to be better informed in this matter. It was agreed that would be done.
- 7.3 **RESOLVED** – That the contents of the report be received and noted.

7 ITEMS REFERRED FOR COUNCIL

- 8.1 There were none.

The meeting concluded at 5.00pm

Signed

Chairman

Dated this

day of

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 15

Brighton & Hove City Council

Subject:	Street Trading Policy Review		
Date of Meeting:	23 November 2017		
Report of:	Director of Neighbourhoods, Communities and Housing		
Contact Officer:	Name:	Jim Whitelegg	Tel: 01273 292438
	Email:	Jim.whitelegg@brighton-hove.gcsx.gov.uk	
Ward(s) affected:	All		

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 21st November 2013. At the June 2017, Licensing Committee (Non-Licensing Act 2003) considered a report of the Executive Director, Neighbourhoods, Communities & Housing that consideration be given to re-designating some of the streets in Zones A & B and to prohibiting trading on yellow lines and where there are parking restrictions. The committee noted the contents of this report, recommending that officers should consult on amending conditions so that trading cannot take place on yellow lines and/or otherwise contravene TROs (Traffic Regulation Orders) including parking restrictions. Legislation allows for the Council to vary the conditions of a street trading consent as they consider reasonably necessary. Conditions may specify trading restrictions on yellow lines or parking restrictions.

2. RECOMMENDATIONS:

2.1. That members agree to approve the suggested varied conditions as listed below, in light of the consultation responses contained in Appendix B.

- F. The Trader shall operate in a manner which causes no nuisance, obstruction or danger to the Council or to the general public.
- L. The Trader shall be prohibited from trading on double yellow lines.
- M. The Trader shall be prohibited from trading in residential and shared pay display parking bays.
- N. The Trader shall be permitted to trade from pay and display parking bays providing they abide by any specified maximum waiting times and display a valid ticket for that bay.

In addition the suggested Time Limits for Zone B be removed or remain as a standard (8am-6pm) but we may accept special dispensation to depart from these times upon application in individual cases.

The conditions to take effect immediately for new applications and upon renewal for existing traders.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS

On 29 June 2017, Licensing Committee received a report and asked officers to initiate consultation regarding a review of the council's Street trading Policy.

CONSULTATION

Officers, in consultation with the Chair of Licensing and opposition spokespersons amended the street trading policy.

Consultation commenced on 1st August 2017 and lasted 8 weeks, closing on the 26th September 2017. The letter and revised Policy is contained in Appendix A and include:

three new conditions (L, M, N) have been added and an amendment to wording to condition F. Time limits were also added to Zone, suggesting 8am-6pm in line with Zone A.

- L. The Trader shall be prohibited from trading on double yellow lines, except for a maximum period of 20 minutes at any one location.
- M. The Trader shall be prohibited from trading in residential and shared pay display parking bays, except for a maximum period of 20 minutes at any one location.
- N. The Trader shall be permitted to trade from pay and display parking bays providing they abide by any specified maximum waiting times and display a valid ticket for that bay.

A copy of the letter and revised policy was emailed and sent to all Zone B traders on the 1st August 2017 and also advertised on the Council's consultation portal. In addition, on the 11th August all the Zone B traders were spoken to over the phone to confirm they had received the letter and revised policy and advised to send in their comments. Council Highways & Parking, Police, Local business forums and federations were also consulted.

A total of 37 responses were received; 6 from Zone B traders, 28 from local residents, the Joint Acting Head of Parking & Network Operations, Highway Enforcement Manager, and the Parking Strategy and Contracts Manager from BHCC. The responses can be found in Appendix B.

BHCC Highways and Parking support the proposed changes but highlight possible difficulties with enforcing conditions L & M that refer to "except for a maximum period of 20 minutes at any one location."

Generally the Zone B traders oppose the changes, particularly the prevention of trading on double yellow lines and residential bays. Others request flexibility to the operating times; 2 requesting earlier start times and 1 requesting a later finish times.

Residents' comments are details in full in Appendix B and are all in favour of the changes.

In line with the comments received we propose to amend Condition L & M to remove the reference to "except for a maximum period of 20 mins at any one location", as it is not considered necessary and may present enforcement difficulties. We also have recommended flexibility with the times for Zone B as this is not considered an issue.

Current street trading process

- 3.1. 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 A, which sets out in a table the type of trading permitted in certain areas of the city.
- 3.2. 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.
- 3.3. 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).
- 3.4. 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.
- 3.5. Street artists and hot chestnut sellers are permitted to operate in East Street, Duke Street, Bartholomew Square and Market Street.
- 3.6. 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.

- 3.7. 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.
- 3.8. The table in Appendix B lists the Zone A & B traders. We currently have 17 year round Zone B traders and 6 seasonal (ice cream traders). Of the 17 year round Zone B traders, 7 tend to trade on yellow lines or resident/display parking bays.

Commentary on street trading policy

- 3.9. 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.
- 3.10. For members assistance and as reported last time:

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.

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.

3.11. Legal position - consents could include conditions that trading cannot take place on yellow lines and/or contravene TROs that are in place. Advice is based on the provisions of the Local Government (Miscellaneous Provisions) Act 1982. Schedule 4 of this Act deals with the issue of street trading licences and consents and includes the following powers:

a) Schedule 4, paragraph 7(4) provides that when granting or renewing a street trading consent the council may attach such conditions to it as they consider reasonably necessary.

Paragraph 7(5) states that without prejudice to the generality of (4) above, the conditions that may be attached to a street trading consent include conditions to prevent:-

- (a) Obstruction of the street or danger to persons using it
- (b) Nuisance or annoyance (whether to persons using the street or otherwise)

The Council may at any time vary the conditions of a street trading consent

It seems to be a reasonable condition to require street traders to comply with existing TROs; arguably to allow trading on double yellow lines for any length of time thwarts the purpose of the making of the TRO.

The consents could be issued with the condition that they are subject to any traffic regulation orders which would include single and double yellow lines, resident bays and pay and display bays.

3.12. Highways have indicated that they would support no trading on yellow lines.

3.13. A summary of complaints/enquires relating to street trading over the last 3 years is detailed in the table below (*six months of the year)..

Complaints	Illegal	Obstruction/Noise/Odour/Litter	App Enquiries	Misc	Schools
010417-061017*	12	12	3	4	0
2016-2017	16	15	10	8	2
2015-2016	13	8	21	16	1
2014-2015	16	17	13	22	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.

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.

- 3.14. Changing the Street Trading Policy by re-designation of streets is subject to a statutory procedure which 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. The statutory scheme or imposition of conditions cannot be used to achieve an ulterior motive or aim outside the purpose of the enabling legislation. Concerns to protect existing businesses on Church Road may come within this category.
- 3.15. Varying the conditions of street trading consents is not subject to a set statutory process but consultation should be undertaken with existing traders and other relevant bodies such as the Highway authority.

4. FINANCIAL & OTHER IMPLICATIONS:

4.1 Financial Implications:

Street Trading fees are set at a level that officers reasonably believe will cover the costs of administering the service. Fees are set as part of the annual council budget setting process. The variations to conditions recommended in this report will not have a financial impact on this service..

Finance Officer Consulted: Monica Brooks Date: 12/10/17

4.2 Legal Implications:

The legal position regarding street trading consents and conditions is set out in paragraph 3.11 of the report. Appropriate consultation has taken place and the views of those consulted should be taken into consideration and given appropriate weight.

Lawyer Consulted: Rebecca Sidell Date: 6.10.17

4.3 Equalities Implications:

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

4.4 Sustainability Implications:

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

4.5 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.

- 4.6 Risk and Opportunity Management Implications:
Street trading is a crucial business and employment opportunity and unnecessary regulation might lead to legal challenge.
- 4.7 Corporate / Citywide Implications:
Street trading represents some traditional, historic heritage

SUPPORTING DOCUMENTATION

Appendices:

Appendix A – Consultation Letter and Revised Street Trading Policy

Appendix B – Summary of responses received via consultation process

Documents In Members' Rooms:

None

Background Documents:

None

Appendix A

Letter to Zone B traders

Date: 1st August 2017

Our Ref: STPZB2017

Your Ref:

Phone: (01273) 294429

email Ehl.safety@brighton-hove.gov.uk

Dear

Street trading - existing zone B traders, important information enclosed

Following concerns raised by residents, businesses, councillors and the Council's Highways team regarding street trading on double yellow lines and resident bays, the Licensing Committee have instructed officers to consult on reviewing the Council's Street Trading Policy.

The amendments are marked in red in the attached document, "Street trading Policy Review 2017". Three new conditions are proposed (L, M, N):

- L. The Trader shall be prohibited from trading on double yellow lines, except for a maximum period of 20 minutes at any one location.
- M. The Trader shall be prohibited from trading in residential and shared pay display parking bays, except for a maximum period of 20 minutes at any one location.
- N. The Trader shall be permitted to trade from pay and display parking bays providing they abide by any specified maximum waiting times and display a valid ticket for that bay.

In addition, condition F has been amended:

- F. The Trader shall operate in a manner which causes no nuisance, obstruction or danger to the Council or to the general public.

Also, specified trading times are proposed for Zone B traders of 8am-6pm. There may be special dispensation to depart from these times upon application in individual cases.

The aim of these proposed changes is to make Brighton & Hove's Street Trading Policy more transparent and enforceable; consistent with Traffic Regulation Orders (TROs).

Since these changes, if approved, may affect your existing trading arrangements, we would also consider a lead in period to allow existing traders to consider alternative trading arrangements.

I would be grateful if you could make any representations to the Licensing Manager within 8 weeks from the 1st August 2017 (i.e. by **26th^h September 2017**). Responses may be sent by email to the address given above or by post to:

Ehl.safety@brighton-hove.gov.uk

Licensing Team
Regulatory Services
Bartholomew House
Bartholomew Square
Brighton
BN1 1JP

If you need any further information, please do not hesitate to contact me.

Yours sincerely

Jim Whitelegg
Licensing Manager
Regulatory Services

SUPPORTING DOCUMENTATION

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	8am – 6pm
Zone B	No times set 8am – 6pm (there may be special dispensation to depart from these times upon application in individual cases).

- 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 those 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, **obstruction or danger** 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.
- L. **The Trader shall be prohibited from trading on double yellow lines, except for a maximum period of 20 minutes at any one location.**

- M. The Trader shall be prohibited from trading in residential and shared pay display parking bays, except for a maximum period of 20 minutes at any one location.
- N. The Trader shall be permitted to trade from pay and display parking bays providing they abide by any specified maximum waiting times and display a valid ticket for that bay.

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.

Appendix B – Responses to consultation

Appendix2 – Consultation responses via letter, email and consultation portal

Responses from Highways & Parking (BHCC)

Charles Field, Joint Acting Head of Parking & Network Operations, Transport, BHCC

As this policy review would mean traders with a license can only park on DYL's and resident / shared bays for 20 mins and within exclusive P&D if they display valid ticket then I'm happy to support this from a parking perspective.

- Recent difficulties have highlighted traders vehicles parking on double yellow lines that are not suitable due to causing visibility issues.
- Complaints from residents about large vehicles parking on their road.
- Visitors to traders are causing obstruction issues.
- Traders want to park in residential areas which have a high demand for parking with limited supply.
- May be enforcement difficulties for a 20 min period as CEO's would need to visit twice.

David Fisher, Highway Enforcement Manager (Highway Enforcement), Transport, BHCC

The parking of street trading vehicles on some yellow lines can cause a danger and nuisance to all highway users. As it is not always clear when yellow lines would be suitable (and the majority are not) allowing some traders to use yellow lines encourages others to do the same.

This change in policy is welcomed as it will reduce dangers caused by street trading vehicles.

Paul Nicholl, Parking Strategy and Contracts Manager, BHCC

Sorry for the delay in replying, just back from leave. In addition to Charles comments about the complaints we receive on this issue I'd just add from an enforcement perspective....

The new condition of trading for 'a maximum period of 20 minutes **at any one location**' would be difficult to enforce as traders could just move their vehicles forward or back slightly and argue they were no longer trading 'from the same location'.

Civil Enforcement Officers measure valve positions to establish whether a vehicle has moved or not so this could be problematic.

To avoid this, perhaps the condition could be amended to a maximum period of 20 minutes trading at one location **in any street**, with no return within say 2 hours?

Responses from Zone B Traders

Bready Delights (Kevin Sappleton) - Street Trading in Zone B – Bready Delights, request for dispensation from proposed changes following review of Street Trading Policy

In response to your letter of 1 August 2017 I am writing to request dispensation from your proposal to restrict trading times in Zone B to 8 a.m. to 6 p.m. and that, in line with the existing conditions of my licence, I be allowed to trade up to 10 p.m. followed by half to one hour for clearing up quietly with the shutters down.

My business, Bready Delights, sells Jamaican food from my mobile catering unit which is located at the end of Selborne Road, Hove, BN3 3AJ. I am presently open from 11.30 a.m. to 10 p.m. Monday to Saturday.

I am a sole trader and set up my business less than two years ago. This involved me in considerable capital outlay to convert the van which I use, to equip it and to meet all the required regulations for trading, including for food hygiene and safety requirements. In addition I make substantial and recurring payments to BHCC, for example for the consent to trade and the disposal of trade waste. All of these expenses have to be covered before I can make any profit on my business.

Due to the quality of the food and the excellent reviews I have received my business has been steadily expanding and I have a considerable number of enthusiastic and loyal customers who return repeatedly as well as increasing passing trade. I open at lunchtime and continue to trade until approximately 10 p.m. Trading in this period after 6 p.m is vital for my business as a large proportion of my takings come when people are on their way home from work or on an evening out. I've also recently signed and paid for a contract with the local food delivery service, Dinner2Go, which can only continue if I am able to make food available for their drivers to collect up to 10 p.m.

It would not make economic sense for me to open my van earlier from 8 a.m. as the type of food I sell is not suitable for the breakfast trade.

In terms of location, my van fronts on to a car park rather than nearby houses which reduces any possible disruption to residents.

I've worked extremely hard to set this business up and my medium term plan is to reinvest the profits in order to expand into event and festival catering. Limiting my trading hours so that I have to close at 6 p.m. would affect the viability of my business and there is a possibility I would have to cease trading. I'm therefore asking you for a long term dispensation from your proposal to limit trading hours in Zone B and to permit me to continue trading up to 10 p.m. Monday to Saturday.

If this is not possible then please consider transferring my licence to another area of Brighton and Hove (for example in the centre of Brighton) if this would enable me to stay open until 10 p.m. as I do at present.

Please let me know the timetable for responding to my request. A reply asap would be appreciated as clearly it is necessary to enable me to plan my next steps for the future of my business.

Honey's (Kim Cogham) - Hi, I am writing with reference too the proposed new trading times in zone B. I trade at Honey's and cater for the business on Crowhurst road. I trade from 6am till 3 pm, and have been trading there for nearly 4 years and have built up a very good business.

Most of my trade is early morning with the police, Asda staff and the staff from the units, all coming too me when they swap shifts or before they commence work at 7am.

Please could you review my trading hours, as not only would I lose a lot of business, I would also find it hard too survive with the lack of the early morning trade.

Thank you very much, I look forward too hearing from you.

CJ's Snack Shack (Cheryl Johnson) - Thank you for your e mail dated 28th July 2017. I do not park on residential/pay and display parking bays or double yellow lines. I trade from the industrial estate in Newtown Road, Hove. The nearest residential homes to me are in Old Shoreham Road, quite a distance away. My busiest time of the day is at 7am when roofers and scaffolders come to collect their materials for the day, therefore I usually open for business at 7am. Would you consider allowing me to continue to do so as I would lose a substantial amount of trade by opening at 8am.

JL Burgers (Jamie English) - trades John St) - Hi I'm responding to your letter about changes to trading policy for what you are thinking about changing is crazy you want us to move are vans every one to hours now where is the health and safety in that when you have hot oil and hot water going everywhere. and also where I'm I going to trade there is only four spaces to park as one side of the road has had the bays suspended as they are building on the police station so where can I park my van it's hard to find a space to park as it is I've been trading on the same road and the same spot for 8 years now and never had any problems I've always payed my license fee with you and always done your rules and regulations state now if you decide to make these changes you will be putting me out of business.

Shelley Kenyon (Posh Nosh) - Thank you for your letter dated 1st August 2017 setting out the proposed amendments to the street trading policy.

I have reviewed the letter and I would like my comments to be considered during the review into the current policy.

Name of business: Posh Nosh

Proprietor: Shelley Kenyon
12 Merlin Close
Hove
East Sussex
BN3 6NU

Location: Sutherland Road, Brighton

Zone- B

- L - Our vehicle isn't located on double yellow lines.
- M - Our vehicle is located on a residential/pay and display parking bay but we would be agreeable to paying for a residents parking permit in addition to our permit charges .
- N - Due to the maximum waiting time in our location, it would be impossible to move the vehicle once open for trading, which is why we would agreeable to obtaining a residents permit badge.
- F - We operate in a respectful and professional manner, our current pitch location doesn't cause any obstruction, nuisance or danger to the public.

The proposed trading times are acceptable as we trade from 8am-2.30pm.

I have been trading successfully in our current location for over five years, without complaint from the public. We abide and comply with all of the current regulations. Our pitch isn't located on a residential street, with ample parking opportunities for the public. It doesn't obstruct neither the road or public walkways.

Kevin Varney (Nuance Ltd) - After spending eighteen months building up a business working twelve hours a day seven days a week I receive an email telling me that all the rules were potentially about to change.

What was the reason for this? Quite simply a counsellor, Mr Theobald didn't like looking out of his window at a burger van.

The article Brighton & Hove News ran on this could not have more bias. You got the impression he had broken many laws. When infant non were broken. And as a consequence the rules have to be changed.

Burger van opens can of worms...Yuck.

"If I was to park on double yellow lines all week I would be ticketed."

That is because you don't have a traders licence, obviously.

Mr Theobald goes on to say "direct competition with traders in Church Road. bla bla. Rent rates. bla bla. Level playing field. bla bla.

Some street traders have operated in the same place for up to eight years without moving. It's not until a trader pitches up outside the Town Hall it becomes a problem. This is a clear case of NIMBY.

Who was looking out for the traders in George Street when they gave Tesco planning? I was told one condition Tesco got planning was to supply a carpark. When it first opened we could park for three hours, then two, now we can't park there without buying something in Tesco. How did that happen?

Why should we have a zone A&B? Why should the shops be protected?

Business is Business the strong should be allowed to thrive and the weak should be left to fall by the wayside. Competition will always benefit the consumer.

Why not have mobile traders operating cheek by jowl with high street shops and do away with this protectionism?

On a hot summer day do you really want to queue for half hour plus to get an ice cream at Marrocco's, or would that area/consumer benefit from a mobile street trader?

I recently applied to run the Kiosk in the new Volks visitor centre. I was turned down in favour of an applicant that already ran two other units in that area. Really? A visit to Maderia Drive is like a trip to Benidorm circa 1983. This will not change by letting one company have a monopoly?

Every town today is now almost identical...WHSmith.Check. Boots.Check.

RobertDyas.Check. Costa.Check Starbucks.Check. Notoriously Starbucks don't pay tax. How do the independents compete with that?

We need a City that has flare and passion. We need to encourage entrepreneurs. Not everyone wants to work for the Majors. Mobile street trading is the perfect entry for someone with imagination and enthusiasm to enter their chosen market. Many of which go on to open high street shops.

Real Pizza Company Copthorne. Pizza Pilgrims Wandsworth, they now have a chain of venues. There are many many examples.

The Amendments.

L. Prohibit traders from parking on double yellow lines.

The customer needs to know where to find you. By allowing street traders to park on double yellows we can park in the same place each day.

Can you feasibly change the rules for ST and still allow Builders a permit to park their trucks on double yellows?

M. Traders prohibited residential and shared pay display, max 20 minutes.
Why change that?

N. Permitted to trade from Pay & Display abide by waiting times and pay.
If I had to pay in a bay in quite times the parking meter would be earning more than me.

F. Traders shall cause no nuisance or obstruction.
This maybe the only amendment needed. Provided it was implemented properly.

Specified trading times..?

What is the point in that? If your market is commuters you need to start selling as early in the morning as possible by 8:00am there is only a maximum of one hour left to do so. Should you wish to sell Pizza for example the best trading time would be from 5:00pm to 9:00pm

Before issuing a licence I would suggest that:

The trader has a minimum 4star food Hygiene rating.

They run off solar battery and gas. Not a generator or leaving the engine running.

They don't bellow out smoke or foul odours.

If these rules were put into practice it would all but kill off independent street trading in Brighton.

When I started for the first few months I would have days when my takings would be between £5-£10. Even now a good days takings on a cold winter day can be £30 gross.
If I had to feed a parking meter I would be paying to go to work.

Now I'm not the biggest fan of the traditional Roach Coach selling budget Booker Burgers. But I don't see why the actions of one trader, possibly two, should impact on the livelihood of the rest.

Responses from residents (via the portal)

<i>From</i>	<i>Response</i>
ID	Q1. - Please use the space below to comment on the proposed amendments to the current street trading policy.
4	About time too! I have no problem with anyone trading and trying to make a living but the inconvenience and obstruction some cause by stopping where they shouldn't is very frustrating.
5	I fully support the proposed changes to conditions F, L, M and N. Having checked the street trading zone map on the council's website, why is Zone B so big? Can it not be broken down into smaller zones? It currently contains a large amount of purely residential areas, for instance The Orchards (roads to the west of Hove Park) where we do not want these smelly street vendors causing a nuisance with fumes from their 'cooking'. I would also like to see the trading time further restricted to state Monday-Friday only.
7	I support these amendments
8	Having experienced a street trader parking on double yellow lines for days on end in zone B, I support these changes.
9	I think this is an excellent amendment - double le yellow lines are there for safety and to aid traffic flow. Food sellers should not be exempt from the law in this respect.
10	I think that the amendments proposed are very sensible and tighten up certain areas which have been a bit ambiguous. The double yellow line restrictions will clear up one area where a lot of upset has been caused
11	L. Assuming that double yellow lines are in place for well considered reasons of safety, I don't agree that trading should be allowed in that same location. A street trader would have the same effect as a parked vehicle. M. 20 minutes free trading in a residents' parking bay is using a parking space from paid permit holders. Not paying for the space through a pay and display ticket means no contribution is made. Unfair.
12	My view is that double yellow lines are there for a purpose, usually for reasons of safety, traffic control and access for essential services. With this in mind, how can these important factors be over ruled by people wishing to trade on them. From what I have seen, some traders are not always very respectful of these important factors - they just want to do business regardless. From the above list I would prefer option L. However my person view is that trading must not be permitted on double yellow lines.
14	I am all for private enterprise but I believe street traders in Zone B should abide by local parking regulations, especially the parking on double yellow lines. Double yellow lines are there for a reason, and allowing zone B traders to park all day encourages other people to do the same, illegally. It also takes away the parking for blue badge holders as there is very little disabled parking around the city. I have recently been affected by traders parking in effect a residential area opposite places of residence all day on double yellow lines which means I can no longer temporarily stop outside my own property to load/unload my car for example as I would cause an obstruction in the road due to it being too narrow so would fully support the 20 minute rule that has been proposed.
15	There are no conditions preventing trading in cycle lanes or which block cycle access. This is an issue in some areas eg Jubilee St cycle contraflow. A new condition should be added which prohibits trading on or in a marked cycle lane, whether advisory, mandatory or separated. This should also include streets such as Sydney St which are closed to motor vehicles at certain times but open for cycling.

16	yes these proposals area minimum in terms of regulating this activity. It is very important that residents and visitors can park and often traders take up places for days and cause a nuisance in terms of noise, smell and general disruption. They can be very unattractive and badly disrupt trade for local shops who have higher costs to factor into running thier business.
17	Don't support I or M, but do support N. Do not support F as its too subjective, unless its accompanied with scheme reserving pitches across the city. In general, I'd like to see the policy relaxed to encourage far more street trading, e.g. through a wide range of specified sites city centre and elsewhere that are deemed acceptable with the minimum of paperwork for the trader. Would there be a demand for a pilot scheme for residential trading pitches - parking reserved for traders selling fresh food or hot food? PS Please add a contact phone number to all highways enforcement signs so people can report e.g. people parked in disabled bays, A boards, or unlicensed trading.
18	The Street Trading Policy takes no account of restaurants and other traders that effectively block roads. This is particularly important for cyclists trying to navigate around the city avoiding busy and more dangerous roads. The Council allows restauranteurs to put tables on streets at various times, making cycling either dangerous or impossible, and thus forcing cyclists onto main roads. As the times of closure to motor vehicles vary, it is difficult to plan a journey through these roads, with some hope of them being free of obstruction. The result is that I permanently avoid these roads when cycling, and use more dangerous roads with higher volumes of traffic. Examples are: 1) Ship Street. At times of closure the main part of the street is virtually impassable to cycles near the junction with North Street. I have been forced to use the busier West Street and Old Steine as alternatives to reach the seafront and Lanes. 2) East Street. This is the main thoroughfare for cyclists to reach the safe crossing point on Grand Junction Road on the seafront, to access the seafront cycle path. This is often cluttered with street traders and restaurant tables. I now avoid this route and instead use the more dangerous roundabout at Grand Junction Road/Old Steine/Marine Parade. 3) New Road. I accept that this is a wider road and shared space. However, the restauranteurs and pubs push the limits of their boundaries and often make it almost impossible to pass through on a cycle. The limits of street trading here ought to be strict and strictly enforced. 4) Sydney Street. When Sydney Steet is closed to traffic, then cyclists have to use Tidy Street. But the problem is that at the junction of Tidy Street and Gloucester Road, the cyclist has to means of legally accessing a southbound street towards the seafront, without getting off and pushing. The reason they would want to do this is that Kensington Street, then Jubilee Street, then New Road, North Street and East Street provide the only safe route from the north of Brighton to the seafront for the cycle route and beach. By closing Sydney Street, that route becomes impossible, if done leagally. Again, I now use Grand Parade and the Old Steine to access the seafront, as the 'cycle' routes are becoming inaccessible. In terms of the changes to the Street Trading Policy, they are irrelevant and meaningless, unless the fundamentals of safe walking and cycling are addressed first.
19	Proposals seem very reasonable
20	Brighton would do well to take the lead and encourage all types of trading and reduce the restrictions. We live in a capitalist society after all.
21	Assuming this will not affect community events such as the kemptown festival it looks good. I think that the 6.00PM watershed of maybe a bit tight to allow packing up etc. Maybe define by time of plot left vacant rather than time to stop trading ?
22	OK
24	positive amendments
26	There still needs to be a stronger deterrent and penalty otherwise the new amendments will be ignored as much as the original are.
27	Should be no trading at all on double yellow lines or parking bays as enforcing a 20 min limit is too complex

28	It is disquieting to see this policy so set in stone - irrespective of the amendments proposed here. The residents are not taken into account when designing such policies. What we have is a city over-run with booths and stalls and barrows which are ugly and do not seem to provide a regular and needed service. Though the council generates revenue, the tax payers also generate revenue. Yet weekends always carry the risk of some 'event' taking precedence to piece and quiet in public spaces, including pedestrian areas and parks. Why can't we just have a peaceful city where the citizens not the visitors are considered and allowed our dignity . Everyone seems to be going round all wired and aggression is never far away. Just keep these trading permits for local COMMUNITY initiatives and forget the razzmatazz - the city might be visited then by a different set of tourists who would prefer to enjoy the character of the city and the space offered by the water front. It may even encourage the council to plant a few palms instead of steel posts and wires on the edge of the sea. Spend some money instead of grubby selling out rights to our assets.
30	The exception in ondition L goes against the whole purpose of double yellow lines which is to maintain traffic flow and access for essential services. Even a 20 minute obstruction can lead to disruption.
31	I support these proposed amendments. It would be helpful to define the nature of 'nuisance' at condition F.
32	Why should traders be allowed 20 minutes on double yellow lines and 20 minutes in residential parking bays. Surely this opens the door to abuse and complicates enforcement.
33	All sound resonable
37	I support these proposals to stop the practice of parking on double yellow lines causing safety issues for other road users
38	There is a vehicle barrier in Orchard Road opposite Orchard House and parking is restricted in the street near to it by double yellow lines. This creates a turning space for cars with good visibility of pedestrians and cyclists. On occasions when a large food trailer has been stopped in this part of the road turning has become much more difficult for drivers and safety is adversely affected by the obstruction to visibility. Furthermore it obstructs a useful pickup/dropoff point for taxi users which is a particular problem for disabled people who live close by. The above amendments (esp L) would therefore be appropriate.

LICENSING COMMITTEE (NON-LICENSING ACT 2003 FUNCTIONS)

Agenda Item 16

Brighton & Hove City Council

Subject:	Licence fees 2018/2019		
Date of Meeting:	23 November 2017		
Report of:	Director of Neighbourhoods, Communities & Housing		
Contact Officer:	Name:	Jim Whitelegg, Licensing Manager	Tel: 29-2438
	Email:	Jim.whitelegg@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 2018/19 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 and Private Hire Driver 1 Year Licence fees to increase by approximately 20%. Hackney Carriage Vehicle Licence fee to increase by approximately 7%, All other fees to remain unchanged.
 - Sex entertainment venues and sex establishments fees – fees remain unchanged.
 - Street trading fees– remain unchanged.
 - All Gambling Act 2005 fees – remain unchanged.

A list of agreed fees for 2017-18 and proposed fees for 2018-19 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, 2017] 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, 2017] 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.

Taxi Licensing	
Financial Year	£'000 (- Surplus)/ Deficit
2016/17 Actual	-2
2017/18 Forecast	-1
2018/19 Budget	2
Total	0

3.13 The proposed fees for Hackney Carriage and Private Hire 1-Year Drivers Licences show an increase of approximately 20% to reflect the increased administration costs (2 and 3 year licence fees remain unchanged). The Hackney Carriage Vehicle Licence fee shows an increase of approximately 7% to ensure the costs of the unmet demand survey are fully recovered. All other fees remain unchanged bringing the trading account to a breakeven position. Detailed Trading Accounts are attached in Appendix 3. A number of comments were received regarding the increase and these, together with the Council's legal response, are contained in Appendix 5.

Sex establishments and Street trading

3.14 Sex establishments: A breakdown of inspections carried out during 2016/17 by officers shows that an insignificant amount of inspections related to unlicensed premises. The administration of sex establishments and sex entertainment venues (SEV)s 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.

Sex Establishments and Sex Entertainment Venues	
Financial Year	£'000 (-Surplus)/ Deficit
2016/17 Actual	-1
2017/18 Forecast	1
2018/19 Budget	0
Total	0

The proposed fees remain unchanged. 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 2016/17, 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.

Street Trading	
Financial Year	£'000 (-Surplus)/ Deficit
2016/17 Actual	-6
2017/18 Forecast	3
2018/19 Budget	0
Total	-3

The proposed fees remain unchanged. 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 4.

Gambling Act	
Financial Year	£'000 (-Surplus)/ Deficit
2016/17 Actual	-8
2017/18 Forecast	3
2018/19 Budget	0
Total	-5

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: Monica Brooks

Date 10/10/17

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. Fees must be proportionate. This principle is key and applies to other licensing regimes such as sex establishments.

- This principle has been reinforced by the introduction of the European Services Directive which took effect from the end of 2009. The processes must be non-discriminatory, justified, proportionate, clear, objective, made in advance, transparent and accessible. 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) (2017) UKSC*. It is permissible for enforcement costs to be included in a licence fee but this element of the fee must be levied once the application has been granted. 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: 6.10.17

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.
- 5 Comments and response to fee increase

Documents in Members' Rooms

- 1. None.
- 2. None.

Background Documents

- 1. None.

Appendix 1

TAXI LICENCE FEES			
	2017-18	2018-19	
	Agreed Fee £	Proposed Fee £	Change %
First Application (drivers)	£101.00	£101.00	0.0%
DBS Check*	£44.00	£44.00	0.0%
Hackney Carriage Drivers Licence (1 Year)	£100.00	£120.00	20.0%
Hackney Carriage Drivers Licence (2 Year)	£200.00	£200.00	0.0%
Hackney Carriage Drivers Licence (3 Year)	£300.00	£300.00	0.0%
Private Hire Drivers Licence (1 Year)	£76.00	£91.00	19.7%
Private Hire Drivers Licence (2 Year)	£152.00	£152.00	0.0%
Private Hire Drivers Licence (3 Year)	£228.00	£228.00	0.0%
Hackney Carriage Vehicle Licence (Full Year)	£166.00	£178.00	7.2%
Hackney Carriage Vehicle Licence (Half Year)	£83.00	£89.00	7.2%
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	£145.00	£145.00	0.0%
Private Hire Operator Licence (3 or more Cars) - 5 year	£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%

Appendix 2

LICENCING FEES			
	2017-18	2018-19	
	Agreed Fee	Proposed Fee	Change
	£	£	%
Sex Establishments and Venues			
Sex Entertainment Venue	£3,380.00	£3,380.00	0.0%
Sex Establishments - Grants	£3,700.00	£3,700.00	0.0%
Sex Establishments - Renewal	£3,380.00	£3,380.00	0.0%
Sex Establishments - Occasional	£2,000.00	£2,000.00	0.0%
Street Trading			
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%
Gambling Act			
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

LICENCING FEES			
	2017-18	2018-19	
	Agreed Fee	Proposed Fee	Change
	£	£	%
Betting Tracks - Reg 10	£13.85	£13.85	0.0%
Betting Tracks - Reg 11	£1,250.00	£1,250.00	0.0%
Betting Tracks - Reg 12	£950.00	£950.00	0.0%
Betting Tracks - Reg 13	£13.85	£13.85	0.0%
Betting Tracks - Reg 14	£950.00	£950.00	0.0%
Betting Tracks - Reg 15	£1,434.00	£1,434.00	0.0%
FECs - Reg 4 (2) (a)	£360.00	£360.00	0.0%
FECs - Reg 4 (2) (b)	£1,200.00	£1,200.00	0.0%
FECs - Reg 5 (2) (a)	£741.00	£741.00	0.0%
FECs - Reg 5 (2) (b)	£1,434.00	£1,434.00	0.0%
FECs - Reg 6 and Reg 8	£547.80	£547.80	0.0%
FECs - Reg 10	£13.85	£13.85	0.0%
FECs - Reg 11	£1,000.00	£1,000.00	0.0%
FECs - Reg 12	£950.00	£950.00	0.0%
FECs - Reg 13	£13.85	£13.85	0.0%
FECs - Reg 14	£950.00	£950.00	0.0%
FECs - Reg 15	£1,386.00	£1,386.00	0.0%
Betting Other - Reg 4 (2) (a)	£360.00	£360.00	0.0%
Betting Other - Reg 4 (2) (b)	£1,434.00	£1,434.00	0.0%
Betting Other - Reg 5 (2) (a)	£741.00	£741.00	0.0%
Betting Other - Reg 5 (2) (b)	£1,434.00	£1,434.00	0.0%
Betting Other - Reg 6 and Reg 8	£448.80	£448.80	0.0%
Betting Other - Reg 10	£13.85	£13.85	0.0%
Betting Other - Reg 11	£1,434.00	£1,434.00	0.0%
Betting Other - Reg 12	£1,200.00	£1,200.00	0.0%
Betting Other - Reg 13	£13.85	£13.85	0.0%
Betting Other - Reg 14	£1,200.00	£1,200.00	0.0%
Betting Other - Reg 15	£1,434.00	£1,434.00	0.0%
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%

Appendix 3 - Taxi Licensing Fee Trading Accounts 2016-2019

Taxi Licensing - Three Year Accounts

2016-17 Financial Year Actual				
CIPFA Standard Subjective	Hackney Carriages - Vehicles	Hackney Carriages - Drivers	Private Hire - Vehicles	Private Hire - Drivers
	Allocation	Allocation	Allocation	Allocation
	£	£	£	£
Direct Employees	44,775	47,975	16,591	13,530
Indirect Employees (Non DBS)	1,858	2,075	717	585
Indirect Employees (DBS)	0	12,548	0	3,490
Premises Related	0	0	0	0
Transport Related	430	481	166	135
Unmet Demand Survey	1,149	0	0	0
Driver Assessments/Checks	0	19,081	0	5,307
Supplies and Services	8,797	9,827	3,395	2,769
Support Services	17,189	19,200	6,634	5,411
Management Overhead	18,819	21,021	7,263	5,924
Total Expenditure	93,018	132,209	34,767	37,151
Total Income	-97,159	-137,005	-36,862	-28,190
Total (Surplus) / Deficit	-4,141	-4,796	-2,095	8,961

2017-18 Financial Year Forecast				
CIPFA Standard Subjective	Hackney Carriages - Vehicles	Hackney Carriages - Drivers	Private Hire - Vehicles	Private Hire - Drivers
	Allocation	Allocation	Allocation	Allocation
	£	£	£	£
Direct Employees	44,485	47,660	16,530	13,441
Indirect Employees (Non DBS)	1,241	1,386	479	391
Indirect Employees (DBS)	0	12,597	0	3,503
Premises Related	0	0	0	0
Transport Related	567	634	219	179
Unmet Demand Survey	0	0	0	0
Driver Assessments/Checks	0	24,959	0	6,941
Supplies and Services	9,823	10,972	3,791	3,092
Support Services	17,532	19,584	6,767	5,519
Management Overhead	19,067	21,298	7,359	6,002
Total Expenditure	92,716	139,090	35,145	39,067
Total Income	-94,620	-138,064	-33,543	-40,522
Total (Surplus) / Deficit	-1,904	1,026	1,602	-1,455

2018-19 Financial Year Budget				
CIPFA Standard Subjective	Hackney Carriages - Vehicles	Hackney Carriages - Drivers	Private Hire - Vehicles	Private Hire - Drivers
	Allocation	Allocation	Allocation	Allocation
	£	£	£	£
Direct Employees	44,928	48,134	16,694	13,574
Indirect Employees (Non DBS)	1,262	1,410	487	397
Indirect Employees (DBS)	0	12,597	0	3,503
Premises Related	0	0	0	0
Transport Related	578	646	223	182
Unmet Demand Survey	6,000	0	0	0
Driver Assessments/Checks	0	25,452	0	7,078
Supplies and Services	10,021	11,194	3,868	3,154
Support Services	17,883	19,976	6,902	5,629
Management Overhead	19,261	21,514	7,434	6,063
Total Expenditure	99,933	140,921	35,608	39,582
Total Income	-101,460	-138,064	-33,543	-40,522
Total (Surplus) / Deficit	-1,527	2,857	2,065	-940
Total Three-Year (Surplus) / Deficit	-7,573	-913	1,573	6,566

Appendix 4 - Licence Fee Trading Accounts 2016-2019

Licence Fee - Three Year Accounts

2016-17 Financial Year Actual			
CIPFA Standard Subjective	Sex Establishments	Street Trading (Legal)	Gambling Act
	Allocation	Allocation	Allocation
	£	£	£
Direct Employees	10,123	21,370	14,903
Indirect Employees	754	1,591	1,110
Transport	34	71	50
Supplies and Services	692	1,460	1,018
Support Services	8,646	18,253	12,729
Management Overheads	4,529	9,561	6,667
Total Expenditure	24,777	52,306	36,477
Total Income	-25,920	-58,664	-44,493
Total (Surplus) / Deficit	-1,143	-6,358	-8,016

2017-18 Financial Year Forecast			
CIPFA Standard Subjective	Sex Establishments	Street Trading (Legal)	Gambling Act
	Allocation	Allocation	Allocation
	£	£	£
Direct Employees	11,103	23,440	16,346
Indirect Employees	108	228	159
Transport	22	46	32
Supplies and Services	151	319	223
Support Services	12,736	26,887	18,750
Management Overheads	4,188	8,842	6,166
Total Expenditure	28,308	59,761	41,675
Total Income	-27,040	-56,580	-38,946
Total (Surplus) / Deficit	1,268	3,181	2,729

2018-19 Financial Year Budget			
CIPFA Standard Subjective	Sex Establishments	Street Trading (Legal)	Gambling Act
	Allocation	Allocation	Allocation
	£	£	£
Direct Employees	11,214	23,673	16,509
Indirect Employees	110	232	162
Transport	22	46	32
Supplies and Services	154	325	227
Support Services	12,990	27,424	19,125
Management Overheads	2,131	4,499	3,138
Total Expenditure	26,621	56,200	39,192
Total Income	-27,040	-56,580	-38,946
Total (Surplus) / Deficit	-419	-380	246

Total Three-Year (Surplus) / Deficit	-295	-3,557	-5,040
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Appendix 5 – Response and comments to proposed increase in 1 year driver and vehicle fees certain taxi fees

Council's Legal Response

Dear all,

I have been asked to respond to your comments and objections concerning the proposed licence fees and in particular those relating to driver licence fees.

The fees are set in accordance with the relevant legislative provisions with the legitimate aim of covering the costs of administration in relation to the service. It should be noted that there has been no fee increase for 3 years which demonstrates that costs have been kept under control and that the impact of inflationary pressures, (latest CPI is at 3%), have been managed carefully by the service.

With regard to the increase in drivers 1 year licence fees, in line with the yearly review of running costs it has become apparent that the costs of issuing a 1 year licence are disproportionately higher than that of a 2/3 year licence and so unfortunately these fees do need to increase. This is a legitimate aim to cover the cost of providing the service and is not unlawful discrimination. This fee structure is on a par with neighbouring authorities fee structures e.g. Portsmouth.

It has been confirmed that the enforcement work concerning out of district drivers with TFL has not been included in the licence fees.

Members will discuss the proposed fees at the licensing committee on the 23rd November and will be made aware of the comments and objections raised by the trade.

Yours sincerely,

Trade's comments

Martin,

I hope that it is not too late to object to these proposals. The only increase that I can see here is a £20 increase on the yearly licence of drivers licences. The only drivers that will no doubt be affected by this will be drivers over the age of 65. Can you tell me why you have decided to victimise these drivers as it isn't their fault that they have to re-licence annually. It is a condition of licencing that forces them to have a medical every year which can cost between £80-£150 already. There is no problem with the medical as it is good to know that the driver concerned is fit to drive. This "penalty" on these specific drivers smacks of "agism" and as the shop steward of Unite in Brighton I object wholeheartedly. If there is to be a rise then it should be shared equally among all of us and not drivers 65 and over. Can you also please place my objection before the licensing Committee on 23rd November 2017 prior to them voting on the matter?

Yours Sincerely,

John Oram

Good point John

What will be interesting to hear is why the costs have gone up and why drivers are expected to pay them.

Is it because of a certain operator causing a massive increase in complaints for the HCO to handle?

Appendix 5 – Response and comments to proposed increase in 1 year driver and vehicle fees certain taxi fees

Surely they are the ones that should be paying this massive increase not law abiding local drivers?

Jon Smith GMB NOC Vice Chair

Hi John & John,

Just finished work on a suitably wintery night even though it's still Autumn, allegedly!

I'd be extremely interested in seeing the accounts ("Ring Fenced Budget") upon which these increases are based (perhaps the past 3 years for comparison) in the spirit of true transparency, so that we (the Trade) can audit them and what's more ascertain why there should be such a steep "Spike" in the increase of Brighton & Hove Licence Fees this year!?

I share your concern(s) regarding what appears to be the disproportionate nature of the increase in respect of drivers aged over 60, which I concur, may amount to ageism!

Whilst on the subject of Licensing fees, we (Unite) would also like to offer questions regarding the financing of enforcement together with the investigation of complaints against vehicles and drivers licensed many miles away, but working in Brighton - and the possible contra/re-charging of these fees to the relevant Council's (Licensing Authority's) budget! Although, we have been assured that there have been no complaints regarding the Uber operation locally!?

I've no doubt the City Council will be Pleased to supply such information, in the true spirit of open democracy, prior to the consideration or resolution of any new schedule of Taxi/PH Licence fees.

Kind Regards, Sean Ridley
Asst. Secretary Unite the Union – South-East Region (Cab Section).

Dear Martin

Thank you for your email on Proposed Licence Fees.

Firstly I unable recall if this was mentioned at the last Trade Forum meeting a couple of weeks ago?

If it was then I was not aware that this was going to be put to the Licensing Committee meeting in November or if this was mentioned as a draft proposal for next year for the following Licensing Committee meeting in February ready for the new financial year in April 2018?

However I am unable to recall if the details were made available about the proposed increases where as at previous trade meetings the full details of any proposed increase in fees were made available at Trade Forum meetings for a full discussion.

Appendix 5 – Response and comments to proposed increase in 1 year driver and vehicle fees certain taxi fees

This is very much like the fleeting mention of the proposed 'Low Emission Policy' that was briefly touched on and where the trade at the meeting sat up and asked is to where exactly was the trade consultation on this matter.

This resulted in the 'Low Emission Policy' being removed from the November Licensing Committee meeting and an extraordinary Trade Forum meeting being arranged in December for full consultation.

Driver Licence Increases

John Oram of Unite has already made some very good points on the issue of the yearly hackney carriage driver licence being increased by 20% and indeed this is the same as the yearly private hire driver licence increasing by 19.7% for those drivers who have reached the age of 65 who require an annual licence which would certainly look like ageism as John has suggested.... and on behalf of the GMB I would like to back those points made.

Could you please provide a breakdown as to why the council considers to:

1: Increase the hackney carriage and private hire driver fees?

2: Increase the fees by 20% and as to how this figure was arrived at?

Fee Increases

Can you please give complete assurance that the proposed fee increases have nothing to do with the extra work that the HCO has had to take on with regards to complaints about private hire vehicles that are not licensed by Brighton & Hove who are predominantly working in the city.

Fee Increase Deferral

As no consultation has taken place with trade on the full details of the proposed increase in fees I would respectfully ask that this matter should be deferred for the November Licensing Committee meeting and put on the agenda for the extraordinary Trade Forum meeting in December so the trade can have a full debate on the details.

Thank you

With regards

Andrew Peters
Secretary
GMB Brighton & Hove Taxi Section

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 17

Brighton & Hove City Council

Subject:	Private Hire Plate Exemption Policy		
Date of Meeting:	23 November 2017		
Report of:	Director of Neighbourhoods, Communities & Housing		
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:

- 1.1 Members are asked to consider adopting a formal policy with regard to determining applications for exemption from the requirement to display private hire licence plates and approve a new door signs as allowed by section 75 Local Government (Miscellaneous Provisions) Act 1976.

2. RECOMMENDATIONS:

- 2.1 That Members adopt the Private Hire Plate Exemption Policy as shown in appendix 1 with effect from 1 January 2018.
- 2.2 That Members approve the generic Private Hire door sign as shown in appendix 2

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The Local Government (Miscellaneous Provisions) Act 1976 requires that Private Hire Vehicles display an identification plate and drivers of those vehicles wear a driver's badge. The same legislation also allows Brighton & Hove City Council to exempt vehicles from the need to display an identification plate and, where that exemption applies, the requirement to wear a Private Hire Driver badge.
- 3.2 Brighton & Hove City Council has seen an increase in the number of applications for Private Hire Vehicles (PHV) to be exempt from the requirement to display PHV Licence identity plates. A policy is needed to ensure a consistent approach is taken to such applications, that there is a transparent decision making process and to ensure that public safety is not compromised
- 3.3 The practice of displaying a vehicle plate is to ensure clear identification of licensed vehicles by licensing officers, police officers and the hiring public. A strict policy in displaying plates can help prevent the highly illegal practice of unlicensed vehicles

operating for hire and reward and can also prevent confusion with hackney carriage vehicles.

- 3.4 For vehicles used by the general public, the display of identification plates on a licensed vehicle and of the driver's badge is important in terms of public safety and reassurance. They indicate to the travelling public and to enforcement authorities that prior to being licensed both the vehicle and the driver have been subjected to checks to ensure their (the public's) safety.
- 3.5 There are occasions when the requirement to display an external identification plate may have the opposite effect in terms of customer safety and could have commercial implications for the operating business. The display of Local Authority licence plates externally may also deter some corporate customers from using the service; and in some circumstances the identification of the vehicle as a licensed vehicle may allow "high risk" passengers to be more readily targeted putting both them and the driver at risk. For example, vehicles used by Government Ministers or celebrities.
- 3.6 According to some members of the trade the display of the vehicle plate externally may deter some corporate customers from using a private hire service.
- 3.7 Exemptions from displaying identification plates may be in respect of individual vehicles only based upon demonstrable evidenced based need. Applications for exemptions relating to a fleet of vehicles will not be allowed. Each application will be assessed on its own merit
- 3.8 Applications for exemption from the requirement to display identification plates may be considered where the following requirements are met;
 - a) Vehicles must be of a standard of comfort and equipped to a level higher than that of a 'standard' Private Hire Vehicle.
 - b) The vehicle will be in pristine condition with no visible defects, dents or blemishes to the external bodywork or internal trim and seating.
 - c) The type of work undertaken is 'executive' in nature. The type of work that may be considered 'executive' may include:
 - i) Corporate bookings to transport employees and clients on business related journeys
 - ii) Other journeys where the client specifically requires a vehicle without any private hire plates or signage on it at the time of booking
 - iii) Bookings for clients (for example politicians and celebrities) who for security or personal safety reasons would not want the vehicle to be identifiable as a private hire vehicle
 - d) The percentage of 'executive' work undertaken by the vehicle must constitute at least 75% of the total work carried out by the vehicle.
 - e) A dress code commensurate with executive work is required.

3.9 A generic door sign has been developed so it can be used where a vehicle is being operated on more than one circuit or if the driver believes that the vehicle has been targeted. (see appendix 2).

4. COMMUNITY ENGAGEMENT AND CONSULTATION

4.1. The trade at the recent Hackney Carriage and Private Hire Forum were very supportive of the proposed policy.

4.2 The GMB Union have emailed the following:

Exemption Policy

For the record:

The GMB applauds the council for taking on the trades concerns about the high number of Brighton & Hove private hire proprietors who have removed all licensing identification following the support from Fred Jones to do so rendering the ordinary private hire vehicle to be unidentifiable which causes great concern for public safety.

I would like to offer a slight alteration based on what I mentioned at the meeting today under the conditions of attire:

The draft proposal states:

f. During the period of the exemption notice the driver of the vehicle whilst engaged on private hire work will be smartly dressed in a plain navy, black or grey formal chauffeur's uniform (or equivalent for a chauffeuse).

My slight alteration is:

f. During the period of the exemption notice the driver of the vehicle whilst engaged on private hire work will be smartly dressed in accordance to the suitability as a chauffeur (or equivalent for a chauffeuse).

One point on the Exemption Policy: Is there any intention to remove the requirement for CCTV when an Exemption certificate is active?

4.3 Uber have emailed the following:

I wanted to provide some suggestions to the update PHV Plate / Livery Exemption policy before it goes to committee.

It seems that there is strong will from across the Trade for livery on all PHV cars for public safety reasons. Whilst I disagree with this rationale with the advent of modern technology, I respect the decision.

As you are aware from the reports by Uber partner-drivers and myself there have been unintended consequences of livery on Brighton & Hove private hire vehicles in the past 12 months. These include:

- Enabling Operators to exercise undue control over drivers, preventing them from working with multiple operators at the same time which they are entitled to do
- Targeting drivers from one operator for physical and verbal abuse when on the road
- Make cars driving with one Operator easily identifiable and potentially more likely to be vandalised.

Ultimately the consequence of these is to restrict consumer choice and availability of licensed vehicles, both to the detriment of the travelling public and safety.

In order to fulfil the stated policy objectives regarding public safety / vehicle identification but also address remove the opportunity for unintended consequences of livery outlined above I wanted to suggest some amendments to the proposed Policy to be put in front of committee:

- Council livery is mandatory (Council Logo, Pre-Booked statement) when undertaking bookings
- No individual operator identifiers permitted on any livery (name, phone number etc)
- All cars will look the same, with clear markings for the public.
- Permit magnetic signage that can be removed when not working and impose a condition on drivers to fix magnets when working

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

5.1. There are no direct financial implications arising from the recommendations made in this report.

Finance Officer Consulted: Michael Bentley

Date: 09.11.17

Legal Implications:

5.2. The legal basis for exemptions relating to the plate or disc is provided for by Section 75 (3) of the Local Government (Miscellaneous Provisions) Act 1976

Lawyer Consulted: Rebecca Sidell

Date: 6.10.17

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. Option 1

Do nothing. Applications for plate exemptions shall be considered on an individual basis but members and officers will not rely on any policy. There would be a risk of a lack of a consistent approach.

6.2. Option 2

No plate exemptions shall be granted for any licensed private hire vehicles. Current practise has however already involved the agreement of some exemptions.

16. Option 3

Plate exemptions for private hire vehicles that are specifically vintage or classic vehicles. In view of the vast numbers of makes and models of vehicles available, it is best practice not to produce a policy listing specific vehicles that would be approved, as this list will require constant updating.

7. REASONS FOR REPORT RECOMMENDATIONS

7.1. To formally adopt a Private Hire Plate Exemptions Policy

Private Hire Vehicle Exemption from Displaying External Plate Policy

Section 75 of the Local Government (Miscellaneous Provisions) Act 1976 - Draft

1. The Policy

- 1.1. Exemptions from displaying external identification plates (vehicle licence plates) may be in respect of individual vehicles only. Applications for exemptions relating to a fleet of vehicles will not be allowed.
- 1.2. Each application will be assessed on its own merit and each vehicle will be inspected by an authorised council officer to ensure that it is fit for purpose.
- 1.3. We will only exercise these discretionary powers in rare cases, where we are satisfied that there is a genuine operational business need and business requirement and that the safety of the public will not be compromised as a result.

Exemption:

- 2.1. Applications for exemption from the requirement to display an external identification plate on the rear of a private hire vehicle for the duration of the licence will generally only be considered where the requirements listed below are met:
 - Work undertaken is exclusively "chauffeured" in nature. The chauffeur and vehicle are specifically hired to provide transport to a company or person, and/or where the display of a licence plate may affect the dignity or security of the persons carried.
 - Vehicles must be of a standard of a size and comfort as decided the Executive Director – Neighbourhoods, Communities & Housing and equipped to a level equal or above luxury models of vehicles such as Mercedes Benz E or S Class, BMW 7 Series, Lexus GS or LS, Audi A8, Rolls Royce and Bentley saloons. (The highest specification executive type saloon cars from other manufacturers may also be considered).
 - Vehicles must be in pristine condition with no visible defects, dents or blemishes to the external bodywork, wheels or internal trim and seating.
 - The safety of the travelling public will not be compromised by exempting the specified vehicle from displaying an identity plate.
- 2.2. An application for a vehicle to be exempted from displaying an external identification plate must be made by the vehicle proprietor using the appropriate application form. Additional documentation may be requested as reasonably necessary to allow the Council to make an informed decision. Where such documentation is not provided to the satisfaction of the Council the application will be refused. The Council will maintain commercial confidentiality.
- 2.3. An Authorised Officer will assess whether or not there is a genuine operational business need and whether or not the vehicle is considered to meet the criterion at

- 2.4. There is no legal route of appeal in relation to the refusal of an exemption. In light of this a route of appeal will be provided through the Corporate Complaint process and in the event of a complaint it will be dealt with as a Stage 1 Corporate Complaint and determined by the Licensing Manager.
- 2.5. Where an application is granted and a vehicle is exempted from displaying its external identification plate an exemption notice will be issued as soon as practical after the decision is made.
- 2.6. Irrespective of when an exemption notice is granted the initial exemption notice will expire on the same day as the expiration of the vehicle's current private hire licence, unless it is otherwise surrendered or revoked. Thereafter any renewed exemption notice will last for a period of time that is coterminous with that vehicle's private hire licence unless either the licence or notice is otherwise surrendered or revoked.
- 2.7. Exemption notices may be renewed annually subject to the vehicle undergoing a re-inspection by an authorised officer to ensure that it continues to be fit for purpose.
- 2.8. Other than where to do so would conflict with the requirements of this policy, all vehicles granted an exemption notice must, in addition to the requirements of this policy, comply with the Council's Private Hire Driver and Vehicle conditions.
- 2.9. The following conditions will apply to all private hire vehicles granted an exemption from the requirement to display an external identification plate by Brighton & Hove City Council, and are in addition to the criteria and conditions set out in the council's general requirements and conditions pertaining to licensed private hire vehicles and drivers.
 - a. The identification plate and exemption notice provided by the Council pursuant to requirements of the Local Government (Miscellaneous Provisions) Act 1976 shall remain the property of the Council.
 - b. The exemption notice issued by the Council will be carried in the vehicle at all times and will be produced upon request to an authorised officer of the Council or any Police Officer or Other Authorised Person.
 - c. When issued with an exemption notice, the vehicle will not be required to display any other signs (except the internal licence plate) which the Council may at any time require private hire vehicles to display.
 - d. The proprietor will not display in, on or from the vehicle any advertisement, signage, logos or insignia advertising the operating company or the vehicle's status as a private hire vehicle.
 - e. During the period of the exemption notice, the driver shall not be required to wear the private hire driver's identification badge but will have it available for immediate inspection by an authorised officer of the Council or any Police Officer on request.

- f. During the period of the exemption notice the driver of the vehicle whilst engaged on private hire work will be smartly dressed such as in a business suit.
- g. The proprietor shall within 1 working day notify the Council of any change in the use of the vehicle.
- h. The proprietor shall not use the vehicle for private hire purposes other than for chauffeur use (i.e. not for 'normal' airport journey's or daily private hire use).
- j. The exemption will cease to have effect on selling or transferring the vehicle to another party. The person to whom the exemption is granted must inform the council of the sale/transfer of ownership immediately and in writing, and provide details of the new owner. The exemption notice must be returned to the Council along with the private hire vehicle identification plate unless being sold to another private hire operator licensed by the Council; in which case, only the exemption notice has to be returned.
- k. A taximeter will not be installed in the vehicle.

Brighton & Hove City Council

PRIVATE HIRE

LICENSED VEHICLE

PRIOR BOOKING ONLY

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 18

Brighton & Hove City Council

Subject:	Hackney Carriage Unmet Demand Survey and Consultation on Wheelchair Accessible Vehicle Provision.		
Date of Meeting:	23 November 2017		
Report of:	Director of Neighbourhoods, Communities & Housing		
Contact Officer:	Name: <i>Martin Seymour</i>	Tel: 29-6659	
	E-mail: martin.seymour@brighton-hove.gcsx.gov.uk		
Wards Affected:	All		

FOR GENERAL RELEASE

SUMMARY AND POLICY CONTEXT:

- 1.1 It is proposed that the council undertake a Hackney Carriage “Unmet Demand Survey” will be undertaken during 2018 to determine any unmet demand for Hackney Carriages.
- 1.2 That the survey will look at current policies and provision of hackney carriage vehicles in the context of other similar authorities in England and in particular Wheelchair Accessible Vehicle Provision and the % of Wheelchair Accessible Vehicles in the fleet.
2. RECOMMENDATIONS:
 - 2.1 Members approve the commission of an unmet demand survey to be undertaken during 2018. That any survey and report should compare current policies and provision with other similar authorities in England to provide evidence in relation to the perceived or actual problem of availability of wheelchair accessible vehicles and the % of wheelchair accessible vehicles of the hackney carriage fleet and consultation with local stakeholders.
 - 2.2 That members confirm their support for the current restricted numbers policy for hackney carriage vehicles with managed growth of five additional plates issued annually to wheelchair accessible vehicles.
 - 2.3 That members note that this policy will be reviewed following the outcome of the unmet demand survey

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:
- 3.1 The council licences hackney carriage vehicles and private hire vehicles. Hackney Carriages (taxis) can ply for hire in the streets, at taxi ranks and accept prior bookings whereas Private Hire vehicles can only accept work where a prior booking has been made through a private hire operator. There is no limit on the number of private hire vehicle licences.
- 3.2 The Transport Act, 1985 s16 allows the council to limit the number providing it is satisfied that there is no significant demand for hackney carriages, which is unmet. The only acceptable method of determining demand is by an independent survey. It is estimated that the cost of the report will be in the region of £20K and will be funded through the Hackney Carriage Vehicle Budget.
- 3.3 A local licensing authority in the event of a challenge to a decision to refuse a licence may have to establish to the courts that it had, reasonably, been satisfied that there was no significant unmet demand. An interval of three years is commonly regarded as the maximum reasonable period between surveys.
- 3.4 Most local licensing authorities do not impose quantity restrictions and the Department for Transport regards that as best practice. Where restrictions are imposed, the Department for Transport urges that the matter should be regularly reconsidered and further urges that the issue to be addressed first is whether the restrictions should continue at all.
- 3.5 In most cases where quantity restrictions are imposed, vehicle licence plates command a premium, often of tens of thousands of pounds. This indicates that there are people who want to enter the taxi market and provide a service to the public, but who are being prevented from doing so by the quantity restrictions.
- 3.6 An unmet demand survey was carried out in 2015 following which committee agreed to continue with a policy of managed growth, currently 5 new licences a year issued in May.
- 3.7 Currently in Brighton & Hove there are 570 Hackney Carriage vehicles licensed of which 216 are wheelchair accessible and 449 Private Hire Vehicles of which only 53 are wheelchair accessible. There are 1173 Hackney Carriage Licensed Drivers and 583 Private Hire Licensed Drivers.
- 3.8 The report would compare Brighton and Hove provision and policy to other similar authorities to obtain the following information:
- Number of PH and HC in fleet
 - Number of wheelchair accessible PH and HC in fleet.
 - Entry control policy
 - Provision in terms of population per HC
 - Provision population per vehicle (HC and PH)
 - Census data on social make up: to include age profiles, proportion registered disabled etc.

- This would help show if there are any notable differences in provision to either support current policy or provide a case for some change in particular with regard to wheelchair accessible vehicles.

Advise on the % of Wheelchair Accessible Vehicles there should be in the fleet

- 3.9 The consultation would include mystery shopper assessment to determine differences in waiting times for wheelchair accessible vehicles and to establish if the situation has changed since the last survey and if the differentials in waiting times have reduced or increased as new vehicles have been introduced. It would also include face to face consultation with stakeholders.
- 3.10 The Department for Transport has published guidelines for best practice with regard to quantity restrictions and the conduct of surveys. The Current advice from The Department of Transport can be found at:
[Dft Best Practice Guidance](#)
- 3.11 The competition and markets authority (CMA) also believes that quantity restrictions are not necessary to ensure the safety of passengers, or to ensure that fares are reasonable. However, they can harm passengers by reducing availability, increasing waiting times, and reducing the scope for downward competitive pressure on fares.

The CMA takes the view that concerns around congestion, air pollution and enforcement costs can generally be addressed through measures less harmful to passengers' interests than quantity restrictions.

If the removal of quantity restrictions leads to increased waiting times for taxi drivers between journeys, this indicates that price competition which would benefit passengers is not occurring. Licensing authorities should monitor waiting times and consider adjusting the regulated fare cap to address mismatches between supply and demand. Addressing such mismatches is likely to benefit passengers.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

Not undertaking a hackney carriage unmet demand survey would preclude the council maintaining a restricted numbers policy for hackney carriages.

5. COMMUNITY ENGAGEMENT AND CONSULTATION

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

6. CONCLUSION

- 6.1 Members should confirm their support for the commission of the survey in 2018 if they wish to maintain a restricted numbers policy for hackney carriage vehicles with managed growth of five additional plates issued annually to wheelchair accessible vehicles. If a survey is not carried out the Council is unlikely to be able to maintain its current policy on restricted numbers.

7. FINANCIAL & OTHER IMPLICATIONS:

7.1 Financial Implications:

The fee rates for Hackney Carriages are set at a level that it is reasonably assumed will meet the costs of providing the service. Therefore, this will include the cost of the Unmet Demand Survey. If the number of Hackney Carriages is allowed to increase this will not necessarily result in an increase in overall income, 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. Any costs associated with this would need to be met from within existing budgets, funded by fee income.

Finance Officer Consulted: Name Michael Bentley Date: 09.11.17

7.2 Legal Implications:

Before a local authority can refuse an application for a hackney carriage vehicle licence in order to limit the number of licensed taxis, it must be satisfied that there is no significant demand for the services of taxis within its area which is unmet. If the local authority is so satisfied, a discretion to refuse the licence arises. Any applicant whose application for a licence is refused has a right of appeal to the Crown Court. Section 70 (1) (c) of the Local Government (Miscellaneous) Provisions Act 1976 provides that a licensing authority may charge such fees for the grant of vehicle licences as may be sufficient in the aggregate to cover in whole or in part any reasonable administrative or other costs in connection with the control and supervision of hackney carriages. The costs of the survey may therefore properly be recovered through hackney carriage vehicle licence fees.

Lawyer Consulted: Name Rebecca Sidell Date: 4.10.17

7.3 Equalities Implications:

The survey will provide information from various categories of society in Brighton & Hove, which the council will use to ensure that taxis in the city are licensed to best serve the needs of all. The results will assist the Council in planning for the future ensuring that no group of persons will be disadvantaged through using taxis.

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.

7.5 Any Other Significant Implications:

None

SUPPORTING DOCUMENTATION

None

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 19

Brighton & Hove City Council

Subject:	Hackney Carriage & Private Hire Driver Enforcement and Monitoring		
Date of Meeting:	23 November 2017		
Report of:	Director of Neighbourhoods, Communities & Housing		
Contact Officer:	Name:	<i>Martin Seymour</i>	Tel: 29-6659
	E-mail:	martin.seymour@brighton-hove.gcsx.gov.uk	
Wards Affected:	All		

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 19 June 2017 and 09 October 2017 and interim results of joint enforcement with TfL.

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 such as warnings, suspensions or revocations.
- 3.2 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.
- 3.3 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](#).
- 3.4 All cases are looked at on their own individual merit and if necessary such as in CSE cases multi agency meetings may be held to review available evidence. Legal

advice is sought where appropriate and all enforcement decisions are approved by the licensing manager/head of regulatory services.

- 3.5 In addition to day-to-day enforcement work, officers carry out weekly out-of-hours enforcement work, normally at weekends. This includes monitoring hot spot areas for over and illegal ranking and plying for hire, vehicle inspections and occasional test purchase operations
- 3.6 Officers have been monitoring Surrey Street. The table below shows the results of this monitoring between 18.08.2017 and the 23.09.2017. It also shows complaints received by Regulatory Services since 2012.

Day	Date	Time	Note	Photo
Friday	18.08.2017	16.43	No Queuing	Yes
Saturday	06.09.2017	14.02	No Queuing	Yes
Saturday	09.09.2017	02.27	Taxis in bus stop after station closed. No Queuing in Surrey Street	Yes x 2
Saturday	09.09.2017	21.41	No Queuing	Yes
Wednesday	13.09.2017	20.45	No Queuing	No
Wednesday	13.09.2017	20.07	No Queuing	No
Wednesday	13.09.2017	22.34	No Queuing	No
Friday	15.09.2017	16.15	No Queuing	No
Friday	22.09.2017	16.15	Queueing behind bus	Yes
Friday	22.09.2017	22.41	4 x HC pullover traffic able to pass	No
Friday	22.09.2017	23.58	No Queuing	No
Saturday	23.09.2017	02.09	Taxis in bus stop after station closed. No Queuing in Surrey Street	Yes x 2
Saturday	23.09.2017	21.15	No Queuing	No

Surrey Street Service Requests (Complaints)

Date	Subject	Investigating Team
30.10.2012	AQ Advice	Environmental Protection
26.06.2015	Noise from Taxis from 9pm to 3/4am Drivers talking to each other, radio playing	Environmental Protection
24.09.2015	Councillor complaint – Environmental issues regarding Taxis	Taxis Licensing
26.02.2016	Concerns regarding pollution caused by taxis	Environmental Protection
29.07.2016	Taxis and AQ monitoring for Cllrs.	Environmental Protection
09.08.2016	Taxis and pollution around station	Environmental Protection
20.10.2016	Councillor Complaint re 58 Surrey Street	Environmental Protection
14.03.2017	ETS committee 14.03.17 Surrey Street AQ	Environmental Protection

- 3.7 A series of joint operations have been undertaken with Enforcement Officers from Transport for London (Tfl). The operations were instigated to:
- Increase the overall intelligence picture within the London Private Hire trade outside of London
 - Detect and report drivers and vehicles who are non – compliant
 - Check for Compliance within the licensing of Private Hire Drivers and Vehicles
 - To enhance Public safety and re-assurance
 - To demonstrate to the Private Hire Trade that Transport for London take non compliance very seriously

Originally only day time inspections were planned but were later extended to include 4 weekends (Friday & Saturday Nights) in August and September. TfL have confirmed that they are currently collating the data from their joint operations and once the information has been analysed they will be arranging a formal debrief with the authorities that they worked with. We intend to update Committee accordingly.

- 3.8 There was a total of 15 Joint Operations with Tfl with 76 Vehicles Inspected including 3 non Uber Tfl Vehicles and 2 Brighton & Hove Uber vehicles. Approximately 27 Other Tfl vehicles were seen. Most vehicles inspected were compliant but some minor offences were identified such as the not wearing their badge or carrying a copy of the vehicle insurance. A number of the drivers stopped lived locally or in neighbouring districts.

- 3.9 The table below shows the results of the interim results recorded by Brighton & Hove Officers.

Date	Time	Tfl Uber	B+H Uber	Tfl non Uber	Outcomes
27.06.2017	Tuesday 10am <	6 Vehicles Inspected 2 Others seen		1 Vehicle inspected	1 Driver did not have badge - Reported to TFL 1 Driver not carrying insurance - Reported to TFL
07.07.2017	Friday 8pm <	TP Carried out on 3 Vehicles			1 Failure – Possible Prosecution Pending
12.07.2017	Wednesday 10am <	5 Vehicles Inspected			No non compliance
31.07.2017	Monday 10am <	1 vehicle inspected			Possible insurance problem but checked & was ok
08.08.2017	Tuesday 10am <	3 vehicles inspected			1 driver not wearing badge 1 issued replacement badge holder
19.08.2017	Saturday Night 10pm<	8 Vehicles inspected			1 Smoking in Vehicle Reported to TFL. 1 Driver Sleeping in Car. 1 Discs Laminated – Removed from Vehicle as not legal - Reported to TFL 1 Vehicle reported to TFL for

					cracked Windscreen
25.08.2017	Friday Night 10pm <	7 Vehicles Inspected	2 Vehicles Inspected		1 Did not have Insurance in Vehicle - Reported to TFL 1 Did not have driver badge - Reported to TFL
26.08.2017	Saturday Night 10pm<	6 Vehicles Inspected			1 Vehicle appeared unfit as not had new MOT. Requirement cleared
01.09.2017	Friday 10am<	1 vehicle inspected		2 Vehicles Inspected	No non compliance
08.09.2017	Friday Night 10pm <	3 vehicles inspected 5 Others Seen			1 driver obstructive - refused to show his uber booking history. All 3 not wearing badges.
09.09.2017	Saturday Night 10pm<	6 Vehicles inspected 4 Other Vehicles seen			No non compliance
12.09.2017	Tuesday 10.am <	7 Vehicles inspected 2 other vehicles seen			No non compliance
22.09.2017	Friday Night 10pm <	7 Vehicles Checked. 9 Others Seen			No non compliance
23.09.2017	Saturday Night 10pm<	11 Vehicles Checked 6 others seen			No non compliance
27.09.2017	Wednesday 10am <	2 Vehicles			No non compliance

3.10 On the 27th July the Magistrates dismissed an appeal by a driver against the decision not to renew his licence due to a string of violent incidents (not convictions), the most recent being a domestic violence incident in January 2016. The Court awarded the Council £250 in costs.

3.11 Following a test purchase operation where there were 2 passes and 1 failure resulting in a successful prosecution for acting as a hackney carriage without a licence. Another prosecution is also pending after a private hire picked up during pride without a prior booking.

3.12 The test purchase case which involved an Uber Private Hire Driver plying for hire in Brighton was heard in the Magistrates Court on the 8th November 2017. The defendant did not appear and the Magistrates agreed to proceed in his absence. After hearing the evidence in the case the Magistrates found the matter proved and

decided that the most appropriate sentence was a fine of £220.00 with £500.00 costs and a £30.00 Victim Surcharge.

3.13 For actions taken against drivers / applicants between 19 June 2017 and 09 October 2017. See Appendix 1

3.14 In addition, a one-off piece of work was recently carried out by the Taxi Licensing Team to evaluate the complaints we have received against BHCC-licensed drivers and OoD (Out of District)-Licensed drivers between 28th October 2016 and 11th October 2017. This can be seen in Appendix 2.

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: 09.11.17

Legal Implications:

5.2 There are no direct legal implications.

Lawyer Consulted: Rebecca Sidell Date: 6.10.17

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.

	Licence Type	Date	Brief Description of Case	Aggravating Factors:	Mitigating Factors:	Enforcement Action Taken:
1.	PHDL	19.06.17	Police prosecuting for causing death by careless driving	A fatality is involved. It was not reported for over 2 months. Driver contacted us to get an HCDUAL licence in the interim and did not report, in fact stated his PHVL had broken down not been impounded for investigation.	The Police case is not concluded and still has a DVLA licence.	Suspension pending outcome of prosecution
2.	Dual HC/PH	21.06.17	Driver accepted caution for conduct amounting to harassment in respect of estranged wife. Was advised not to contact her further by the police, but emailed her as part of their divorce.		No violent element, no complaint history, full co-operation.	Warning (2 years)
3.	PHDL	06.07.17	Applicant does not meet DVLA Group 2 Medical Standard			Refusal
4.	Dual HC/PH	29.09.17	Applicant received a conviction for battery following an incident with a cyclist whilst walking dog with wife, cyclist collided with him.	Didn't report the pending case or the outcome – only found out when it came up on DBS. Accepted a conviction.	Applicant received an Absolute Discharge (lowest dispensation) & was not working as a taxi driver at the time of the incident. Thought that the 'absolute discharge' would not appear	Warning

					on DBS.	
5.	PHDL	09.10.17	Applicant received a 20 day driving ban for a speeding offence.	Did not declare the ban on his application form.	First offence.	Warning

Service Request Statistics

Statistics have been compiled from Uniform reports of all Service Requests received by the Taxi Licensing team between the launch of Uber Britannia on 28 October 2016, and 11 October 2017.

Specific types of service requests, of all the types we receive, have been requested and broken down to show how many have been made against BHCC-licensed drivers and OOD-licensed drivers.

For the purposes of these reports, “unjustified” means one of the following:

- The complainant hasn’t provided sufficient information to proceed
- The matter has been investigated and no grounds are found for the complaint
- The complainant has withdrawn their complaint
- The complainant has not withdrawn their complaint but does not want action taken

“Justified” means that we have investigated and found grounds for complaint, and action has been taken by the investigating officer as they have determined appropriate.

Sitting on a rank S.64 LG(MP)A					
	Total number of Service Requests	Investigation Ongoing	Investigation Closed		
			Justified	Unjustified	Referral
BHCC	9	3	4	2	N/A
OoD	43	23	12	5	4
Totals	52	26	16	7	4

We have received a total of 52 complaints about vehicles other than Hackney Carriages waiting on ranks (contrary to Section 64 of Local Government (Miscellaneous Provisions) Act 1976).

In almost all of the justified complaint investigations, formal warning notices were issued to the drivers concerned. According to records we have had no driver reported to us more than once and so this would indicate the approach is effective to date.

Picking up without a prior booking "Flipping" S.46 TPCA					
	Total number of Service Requests	Investigation Ongoing	Investigation Closed		
			Justified	Unjustified	Referral
BHCC	7	3	0	4	N/A
OoD	13	6	0	5	2
Totals	20	9	0	9	2

We have received a total of 20 complaints/reports of drivers picking up without a prior booking (also referred to as "flipping").

Where a matter is found to be unjustified, this usually means that we have approached the operator and found job records for the time in question.

The referrals represent the occasions where the investigating officer determined that the matter should be referred to driver's licensing authority, and no action was taken from this office.

Incidents of a Sexual Nature					
	Total number of Service Requests	Investigation Ongoing	Investigation Closed		
			Justified	Unjustified	Referral
BHCC	7	4	2	1	N/A
OoD	1	0	0	0	1
Totals	8	4	2	1	1

Incidents of a sexual nature include allegations of rape; sexual assault; inappropriate sexual conversation, and sexual misconduct.

Since we do not licence out-of-district drivers, it is not for us to assess their fitness to hold a licence. Where we have been informed of such an incident, we have referred the information to that driver's licensing authority.

Driving Offences					
	Total number of Service Requests	Investigation Ongoing	Investigation Closed		
			Justified	Unjustified	Referral
BHCC	24	9	9	3	3
OoD	4	0	0	0	4
Totals	28	9	9	3	7

Driving offences can include motoring convictions; reports of mobile phone use; speeding; aggressive driving.

A lot of these cases would be referred as they are most appropriately dealt with by the police via Operation Crackdown. In the case of OoD drivers, complainants may be directed to Operation Crackdown, or to the driver's licensing authority.

Unlicensed Driver/Vehicle/Operator					
	Total number of Service Requests	Investigation Ongoing	Investigation Closed		
			Justified	Unjustified	Referral
BHCC	5	4	0	1	N/A
OoD	5	1	1	2	1
Totals	10	5	1	3	1

These service requests will relate to reports of people running private hire businesses without the appropriate licence and drivers and vehicles being unlicensed.

The subjects of these service requests are all working in Brighton & Hove but a question has been raised as to whether they hold the appropriate licences to do so.

The OoD statistics are mainly service requests we received shortly after the launch of Uber, when it was a common misconception that no OoD drivers could work in the city at all. It also includes complaints about unliveried vehicles appearing to ply for hire.

BHCC statistics will include Brighton-based businesses who have failed to obtain a licence for their private hire work, for example.

Conduct (including between BHCC and OOD)					
	Total number of Service Requests	Investigation Ongoing	Investigation Closed		
			Justified	Unjustified	Referral
BHCC	93	34	22	34	3
OoD	13	3	0	1	9
Totals	106	37	22	35	12

In total, we have received 106 service requests relating to driver conduct. This includes complaints from members of the public and members of the trade (made against each other). The type of conduct included in these statistics are aggressive behaviour; rudeness; swearing; discrimination.

Conduct (only between BHCC and OOD)					
	Total number of Service Requests	Investigation Ongoing	Investigation Closed		
			Justified	Unjustified	Referral
BHCC	10	4	2	4	0
OoD	11	3	0	1	7
Totals	21	7	2	5	7

Of the 106 total service requests, 21 have been made by a BHCC-licensed driver against an OoD-licensed driver, or vice versa.

You would expect to see that the majority of complaints made against OoD drivers would be referred, as we cannot investigate the conduct of drivers we do not licence. On one occasion we have noted a complaint as unjustified as the complainant could not provide details of the driver or vehicle. In that case, a referral would not happen as the matter could not be taken forward by the driver's licensing authority either.