



CHELTENHAM

BOROUGH COUNCIL

Notice of a meeting of Licensing Committee

Friday, 1 August 2014

2.30 pm

Council Chamber, Municipal Offices

Membership	
Councillors:	Roger Whyborn (Chair), Diggory Seacome (Vice-Chair), Andrew Chard, Garth Barnes, Wendy Flynn, Adam Lillywhite, Anne Regan, Rob Reid, Pat Thornton and Jon Walklett

The Council has a substitution process and any substitutions will be announced at the meeting

Agenda

1.	APOLOGIES Councillor Rob Reid	
2.	DECLARATIONS OF INTEREST	
3.	PUBLIC QUESTIONS These must be received no later than 12 noon on the fourth working day before the date of the meeting	
4.	MINUTES OF MEETING HELD ON 4 July 2014	(Pages 1 - 10)
5.	MINUTES OF SUB COMMITTEE MEETINGS <ul style="list-style-type: none">• 2 July 2014 – Coffee & Co, 7 Montpellier Terrace, Cheltenham, GL50 1US• 23 July 2014-Cheltenham Town Training Ground, Quat Goose Lane, Cheltenham, GL51 9RX	(Pages 11 - 18)
6.	RENEWAL OF PRIVATE HIRE DRIVER'S LICENCE Mr Akekur Babu Rahman	(Pages 19 - 24)
7.	BRIEFING NOTE Law Commission Report and Draft Taxi & Private Hire Services Bill	(Pages 25 - 40)
8.	ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION Review of Licensing Protocol	

9.		DATE OF NEXT MEETING 5 September 2014	

Contact Officer: Annette Wight, Democracy Assistant, 01242 264130

Email: democratic.services@cheltenham.gov.uk

Licensing Committee

Friday, 4th July, 2014

2.30 - 4.25 pm

Attendees	
Councillors:	Roger Whyborn (Chair), Diggory Seacome (Vice-Chair), Andrew Chard, Anne Regan, Wendy Flynn, Rob Reid, Pat Thornton, Jon Walklett and Adam Lillywhite
Also in attendance:	Vikki Fennell and Louis Krog

Minutes

1. APOLOGIES

Apologies were received from Councillor Garth Barnes.

2. DECLARATIONS OF INTEREST

None declared.

3. PUBLIC QUESTIONS

None received.

4. MINUTES OF MEETING HELD ON

Resolved that the minutes of the meeting held on 25 April 2014 be agreed and signed as a true record.

5. MINUTES OF SUB COMMITTEE MEETINGS

None.

6. APPLICATION TO PLACE AN OBJECT ON THE HIGHWAY - TABLE AND CHAIRS

Louis Krog, Licensing and Business Support Team Leader, introduced the report as circulated with the agenda. An application had been received from Mr Mannan in respect of Coffee& Co, 7 Montpellier Terrace, Cheltenham to place 4 tables and 8 chairs on the pavement directly outside the premises.

If granted the tables and chairs would be placed outside from 07.30 to 23.59 on Monday to Sunday.

Appendix A of the report provided a plan of the layout of the premises, showing the position of the tables and chairs.

Appendix B of the report included a map showing the location of the premises in relation to the objectors' properties.

The officer advised Members that no objections had been received from the consultees but two residents had submitted objections which were attached to Appendix C of the report.

The objections related to the potential for the use of tables and chairs at this location to cause a noise nuisance, an obstruction to the public, a hazard to traffic and the public and the potential over-development of the area due to other nearby tables and chairs.

The officer reminded Members that they had previously granted permission for 4 tables and 8 chairs at this location, but this permission had expired. He advised them that they must deal with this new application on its own merits.

In response to questions from Members the officer made the following responses:

- the only change to the original application was the later start time of half an hour in the morning.
- although licensing officers consulted with planning officers he advised that the licensing and planning processes were entirely separate. Any objections to the planning application for these premises would be considered by the Planning Committee.

Miss Badat attended the Committee and spoke in support of the application. She confirmed that the application was for table and chairs on the highway and there was no change in any other activity. They did not intend to sell a great deal of wines or stay open late so she was confident that they would not disturb local residents.

In response to a question from a Member she confirmed that the business was not planning to use the tables and chairs after 9 p.m. but this permission, if granted, would be in line with their liquor licence.

A Member highlighted that the tables and chairs were sometimes used by the Thai Brasserie next door after the business had closed. The applicant advised that this was also her business. She said that this should not have been happening and gave her apologies and agreed to advise staff that this should not happen.

Members were advised they had two recommendations to determine as follows;

1. The application be approved because Members feel the application is compatible with the current street scene policy, or.
2. The application be refused as the application falls outside the provision of the current street scene policy.

Upon a vote it was unanimously

RESOLVED that the application be approved because Members feel the application is compatible with the current street scene policy.

7. CONDITIONS FOR TABLES AND CHAIRS CONSENT AMENDMENTS

Louis Krog, Licensing and Business Support Team Leader introduced the report as circulated with the agenda. Cheltenham Borough Council had entered into agreement with Gloucestershire Highways to control the provision of tables and chairs locally.

The officer said that Section 115F of the Highways Act 1980 empowers the Council to impose conditions on permissions for tables and chairs to be placed on the highway.

The Council's "Conditions of Permission to Place Tables & Chairs on the Highway" were outlined in Appendix G of the current policy on measures to control street scene activities in Cheltenham.

The officer advised Members that the report sought permission from the Committee to make minor amendments to a number of conditions. These were technical changes rather than policy changes for immediate implementation.

A Member referred to the duty to clean the highway in respect of any permission granted as set out in paragraph 2.5 and requested that responsibility for the specification be allocated to a specific post. It was agreed that this should be the Director of Environment and Regulatory Services.

With this amendment, upon a vote it was unanimously

RESOLVED that the proposed amendments of the conditions outlined in paragraph 2.5 of the report be approved.

8. TATTOO HYGIENE RATING SCHEME

Sara Ball, Senior Environmental Health Officer, introduced the report as circulated with the agenda. The report sought Members to adopt The Tattoo Hygiene Rating Scheme as outlined in paragraph 1.2 of the report.

The officer stated that to ensure that infection control arrangements are adequate and effectively carried out, persons carrying out tattooing must be registered with Cheltenham Borough Council, under the Local Government (Miscellaneous Provisions) Act 1982.

The proposed rating scheme would complement the existing registration requirements but would inform the public about the hygiene standards in the premises and drive up standards across the industry. It would also reduce the risk of incidence of infection at the premises.

She added that the Cabinet Member Built Environment had already approved the fees subject to approval of the scheme by this committee. If approved by all the councils the launch was planned across Gloucestershire on 15 July 2014.

In response to questions from Members, the officer made the following responses:

- she confirmed that all such premises had been visited by officers on two occasions to discuss the scheme. This visit had been to offer education and advice and there was also information on the council's website.
- Following an inspection there would be a sign on the door of the premises indicating the score. The scores would also be available on the council's website for the public to view.
- A Member had asked whether small businesses could afford to be inspected under the scheme. The officer advised that tattooing was a growing industry and a successful market sector. Generally businesses

supported additional regulation as they were keen to drive out businesses with poor standards.

- Asked how the council would clamp down on illegal operators, the officer explained that there was a number of pieces of legislation that could be applied. Some relied on the police for enforcement such as the tattooing of minors.
- A Member suggested that there should be a rating for 'Failure' if the premises were not up to standard. In response the officer advised that all premises would have to meet a minimum standard and there was public health legislation which could be used if the premises were not satisfying infection control procedures. As the scheme was a national one, there was not really an option to change its conditions for an individual council. A score of 1 was the minimum standard required to comply with local bylaws.

Upon a vote it was

RESOLVED that, subject to Cabinet Member approval of the fees, the Tattoo Hygiene Rating Scheme (THRS), as outlined in the report, be adopted in Cheltenham Borough Council's district.

Voting: For 8 with 1 abstention

9. RENEWAL OF STREET TRADING CONSENT

Louis Krog, Licensing and Business Support Team Leader introduced the report as circulated with the agenda. An application for the renewal of a street trading consent had been received from Mr Mark Morris in respect of his flower stall located on the Promenade at the junction with Ormond Place.

The officer reminded Members that they had considered this request in April and that there had been a written undertaking by Mr Morris and the relevant objectors to try and resolve the issues that had led to the objections being raised. A compromise could not be reached and as a result the objectors had again raised objection to the renewal which were set out in the report.

He referred Members to the additional documentation supplied by Mr Morris which had been circulated at the start of the meeting. This documentation included reference to a petition signed by over 760 local people which had been supplied to Mr Krog. It also included a statement from the applicant that he had lowered the height of the flowers, turned the umbrella 90° and made the stall longer rather than wider so that there was a clear sight line straight through to the Regent Arcade. The officer reminded Members that in considering this matter they should be guided by the council policies and vote in the best interests of the Borough as a whole.

In response to questions from Members the officer made the following responses:

- he personally had not been involved in looking at alternative sites but he was aware that meetings had been held and various schemes considered.
- he confirmed that the objections were similar to the objections received against previous applications for renewal by Mr Morris. The difference in this case was that potential investment in the Regent Arcade appeared

to be dependent on the flower stall being removed.

The chair advised Members that it was in his discretion to allow objectors to speak. Accordingly he advised that Mr Howard Barber would be speaking on behalf of the objectors for a maximum of three minutes. Mr Barber advised that he worked for the council as a public space designer and he was speaking impartially in his professional position.

A Member asked whether Mr Barber had a potential conflict of interest since the council had an interest in the Regent Arcade. The chair responded that Mr Barber was speaking to summarise the objectors' position from a public space design viewpoint and therefore this was not a valid objection.

Mr Barber advised that he had done a lot of work looking at alternative options and had discussed these with Mr Morris. As the Promenade was 29 m wide, he felt it could easily accommodate the flower stall but Mr Morris had not been prepared to trial any alternative options. He acknowledged that the flower stall was a positive element of the street scene which he supported but he felt it compromised the street design in its current position.

Mr Morris was invited to speak in support of this application. He highlighted the petition and referred to many comments he had received in the local media and social media both positive and negative. He indicated that a flower stall had been in the same position for 80 years which was considerably longer than the Regent Arcade had been in place. Over the last 8 years his policy had always been to try and find solutions to any difficulties or objections. For example he had changed the colour scheme of the umbrellas to match that of Beards the jewellers. He was not aware that 'trials had failed' as had been reported to this meeting.

Mr Morris advised that there were a number of reasons why the suggested site in the Promenade was not suitable and would be damaging to his business. These were set out in the letter he had circulated on page 2 of the additional information.

A Member referred to page 57/58 of the report and asked why Mr Morris had experimented with the stall but had abandoned the trial after only a few days. They asked whether he had been approached regarding trials of the Promenade site.

In response Mr Morris said he had arranged two meetings through his local councillor to discuss alternatives. He had been willing to trial a site in the Promenade providing the bike racks and the coffee stall were moved. He could not move any further up the Promenade as this would be damaging to his business. This had been demonstrated when the flower stall was moved on a temporary basis whilst the repaving work was being done and he had experienced a very considerable drop in turnover. The current position of his stall tied in with the footfall of people getting off the buses and turning right towards the Arcade.

A Member noted that he had turned the umbrella around by 90° and asked whether Mr Morris would keep it in that position. Another Member asked whether this could be made a condition of the renewal.

The officer advised that Members could make such a condition but they should be mindful that it must be achievable and there would be an expectation on officers to enforce it.

Mr Morris advised that he had to ensure the protection of his flower stock and his staff in adverse weather conditions. He had had to reposition the umbrella at the end of last year for this reason. He also had extra stock to protect at busy times such as Christmas, Mothers Day And Valentines Day. He advised that the umbrella had been designed to be the way it was currently positioned and he was prepared to instruct his staff that it should always be that way on a day in day out basis.

A Member referred to one objector who had commented that the stall was less tidy at the back and asked whether Mr Morris could do anything to improve this.

Mr Morris said he would be prepared to look at this. He didn't tend to keep flowers at the back of the stall as they would be vulnerable to bright sunlight in the mornings from the direction of the Regent Arcade. The 4 m by 3m he had requested did allow for extra cover and protection at the front and back of the stall.

Another Member asked whether Mr Morris could replace the water carriers with weights.

Mr Morris indicated that he had had discussions with Gloucestershire Highways and he had received a quote of £2000 for a more permanent fixture to weight the umbrella. If that was made a condition of the renewal he would satisfy it but it may take him up to six months to find the necessary funding.

Commenting on the application, a Member suggested that the current position was the worst possible place to have a flower stall as it was in a wind tunnel. The Promenade would be a much better position and asked whether the Regent Arcade could offer a pitch.

Mr Morris said in his view the Promenade was far more of a wind tunnel and his stall was more protected in its current position. There had never been a flower stall in the Regent Arcade and he considered the rent would be too prohibitive.

Members adjourned at 3.55 pm following a request by a Member that they could discuss the matter in private and the meeting reconvened at 4:25 p.m.

Members were advised that they had the following recommendations to determine:

1. The renewal application be granted because you consider the grant of this application does comply with the provision of the Street Scene policy and is in the best interest of the borough as a whole; or
2. The application be refused because it does not comply with the provision of the Street Scene policy as the proposed location is deemed unsuitable; or

3. Subject to resolution 1.7.1, the renewal application be granted subject to the express condition that it will be revoked once the improvement work is due to start.
4. Subject to resolution 1.7.3, delegate authority to the Licensing & Business Support Team Leader to draft the condition to be added to the consent.

The chair advised that Members were minded to grant the renewal but they wished to add some additional conditions and he went on to outline their rationale.

The committee accepted that there was a problem with sightlines if nothing was done but they believed a 3 m limit on the stall would be adequate to address the problem. The committee did not believe that the business of the borough would be compromised by the flower stall, in fact they felt the reverse in that the flower stall was an asset in that location which would be compromised if the renewal was not granted.

In response to a question from Mr Morris, the chair confirmed that they would allow a reasonable timeframe for the alternative weights to be put in place.

Upon a vote it was resolved that:

The renewal application be granted because the committee consider the grant of this application does comply with the provision of the Street Scene policy and is in the best interest of the borough as a whole subject to the following conditions;

- 1. The appearance of the rear of the stall (that being the side visible looking up Ormond Terrace towards the Promenade) be improved so that the back-of-house elements are less prominent – possibly enclosed by flower displays.**
- 2. The width of the flower stall will not exceed 3 metres to retain a 3 metre clearance either side, in order to benefit pedestrian movement and lines of sight and will not be subject to concession for any reason including bad weather or seasonal trade.**
- 3. The water containers currently used to secure the stall's canopy must be replaced with purpose built & suitable weights. The replacement of the water containers must be done in a reasonable time agreed in advance with the Licensing & Business Support Team Leader.**

Voting: For 8 with 1 abstention

10. ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION

11. APPLICATION FOR A PRIVATE HIRE LICENCE

Louis Krog, Licensing and Business Support Team Leader introduced the report which had been circulated to members as a late item.

He advised that an application for a Private Hire Vehicle licence had been submitted by Mr Robinson on 27 June 2014. The application was to licence a blue Jaguar X-Type SE, first registered on 29 September 2008. The age of the vehicle did not comply with the council's policy which requires that all new vehicles being licensed as Private Hire vehicles must be under five years old from the date of manufacture. For this reason the application had been referred to Committee for determination.

The officer advised that he had not seen the vehicle himself but he confirmed that it had passed all the relevant tests at the depot and was compliant with the council's mechanical and exterior and interior appearance tests. The mileage was as stated in the papers and was 88568 at most recent MOT.

The applicant was invited to speak in support of his application. He said he was not aware of the five-year rule when he had purchased the car 5-6 weeks ago. He confirmed that it was in outstanding condition and he circulated a number of photos which were viewed by Members of the committee. He explained that he operated an exclusive contract with GCHQ and the car would not be hired out to the general public. He was self-employed and was the sole worker in his business. He would not have the funds to purchase another vehicle so he urged members to grant the licence.

Members were advised that they had the following recommendations to determine:

1. The application be granted because the Committee considers there to be sufficient grounds to deviate from the adopted policy; or
2. The application be refused because the vehicle does not comply with the Council's adopted policy.

Upon a vote it was

Resolved that the application be granted because the Committee considers there to be sufficient grounds to deviate from the adopted policy

Voting; For 8, Against 1.

12. DATE OF NEXT MEETING

1 August 2014

Roger Whyborn
Chairman

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Licensing Sub-Committee

**Wednesday, 2nd July, 2014
10.00 - 10.12 am**

Attendees	
Councillors:	Garth Barnes, Andrew Chard and Diggory Seacome
Officers:	Vikki Fennel, Solicitor and Phil Cooper, Licensing Officer

Minutes

1. ELECTION OF CHAIRMAN

2. APOLOGIES

3. DECLARATIONS OF INTEREST

4. DETERMINATION OF APPLICATION FOR A PREMISES LICENCE

Phil Cooper, Licensing Officer introduced the report as circulated with the agenda. An application had been received for a premises licence at Coffee & Co, 7 Montpellier Terrace, Cheltenham.

The application sought authorisation for the following licensable activities from 8am to 11.59pm every day:

- The sale of alcohol for consumption on and off the premises
- The performance of live music indoors
- The performance of recorded music indoors
- The performance of dance
- Entertainment of a similar description to those referred to above

The Licensing Officer referred Members to page 2 of the report which listed the applicants' steps to promote the licensing objectives, including;

- Joining the local Nightsafe scheme
- Adopting a Challenge 21 policy
- Installing a CCTV system
- Ceasing all use of the outside areas at 11pm
- Keeping windows and doors shut whenever regulated entertainment is being provided after 10pm
- Posting notices asking customers leaving the premises to do so quietly and in an orderly manner

The Licensing Officer advised Members that none of the eight responsible authorities had objected to the application.

Paragraph 4.1 on page 2 of the report detailed 2 relevant representations that had been received. The Licensing Officer confirmed that copies of the representations were provided at Appendix B of the report.

The Licensing Officer stated that residents had asked to state that the plan showing the location of the premises in relation to their property was not correct. The resident's property is the furthest on the right of the plan not the middle of the building as the red arrow showed.

Miss Badat attended the Sub Committee and spoke in support of the application.

Miss Badat explained to Members that the coffee shop had been open for over a year now and they wanted to offer more variety and cater to all needs of its customers. A small selection of alcohol would be offered including good wine sold by the glass. Miss Badat confirmed the premises were not intending to provide live music and had applied for these options on the application at one cost.

Members asked the following questions of Miss Badat and in replying said that:

- Live music and performance of dance had been selected on the application form just in case there was a private function that required this. The premises would not be run as a bar or entertainment venue and would close at 9pm at the latest.
- The applicants have several other cocktail bars that open late and this venue would not be open until 11pm.
- The venue is not changing to a tapas bar but would be providing this sort of food along with tea and cakes. This would offer customers more of a selection.
- The building was not suitable for use of performance of dance but had applied for various licensable activities in 1 application. Permission to play background music was in place.
- The top floor of the premises were the applicants offices.

Upon a vote it was unanimously;

RESOLVED that the application is granted as requested.

Chairman

Licensing Sub-Committee

**Wednesday, 23rd July, 2014
10.00 - 11.20 am**

Attendees	
Councillors:	Pat Thornton (Reserve), Roger Whyborn and John Payne
Officers:	Vikki Fennell and Phil Cooper
Also in attendance:	Paul Godfrey and John Murphy (Cheltenham Football Club), Gerald Ford and Councillor Bernard Fisher (on behalf of the objectors)

Minutes

1. ELECTION OF CHAIRMAN

Councillor Whyborn was duly elected as Chairman.

2. APOLOGIES

Mr Kevin Boote, objector, had given his apologies.

3. DECLARATIONS OF INTEREST

No interests were declared.

4. DETERMINATION OF AN APPLICATION FOR A PREMISES LICENCE

Phil Cooper, Licensing Officer, introduced the report as circulated with the agenda. An application had been received for a premises licence at Cheltenham Town Training Ground, Quat Goose Lane, Cheltenham, Gloucestershire, GL51 9RX.

The application sought authorisation for the following licensable activities from 9am to 11pm every day:

- The sale/supply of alcohol for consumption on the premises
- The performance of live music indoors only
- The playing of recorded music indoors only

The Licensing Officer referred Members to page 2 of the report which listed the applicants' steps to promote the licensing objectives;

- Alcohol consumption and entertainment would be restricted to organised events for employees and relatives, or those held in the function room.
- Event organisers and staff would be required to ensure that people leave the premises quietly and do not congregate unnecessarily.
- Adoption of the Challenge 25 scheme (or equivalent).

The Licensing Officer confirmed that none of the eight responsible authorities had objected to the application. Representations had been received from 18 people, 5 of which were withdrawn subsequent to the applicants having made changes to their original application. The end-time for licensable activities was revised, from 01:00 hours to 23:00 hours, music (live or recorded) would be

played indoors only and late night refreshment no longer formed part of the application. The 13 remaining representations were summarised at Paragraph 4.1 of the report and attached at Appendix D.

Before inviting representatives of the applicants to address the committee, the Chairman confirmed that members of the Sub Committee had been in receipt of the papers some days before the meeting and had undertaken a site visit to view the premises.

The applicants were represented at the Sub Committee by company directors Paul Godfrey and John Murphy, who spoke in support of the application.

John Murphy advised the Sub Committee that the premises at Quat Goose Lane had been rented by Cheltenham Football Club last year. The high rental costs had necessitated sharing of the premises with three others and the application aimed to further maximise income and alleviate financial pressure. He explained that the primary reason for the application in its original form was that it matched the licence granted to Zurich in the past. Unlike Zurich, however, which was holding approximately 80 events a year, the applicants estimated that they would hold approximately 3 events per month, with only 7 provisional bookings for the ensuing 12 months. He hastened to add that event organisers would be referred to the Whaddon Road facility in the first instance, which was better equipped to host events. He reiterated some of the measures that would be taken to avoid alienating neighbours; one full time cleaner with responsibility for maintaining the exterior of the facility, a security professional on standby for each event, professional bar staff from the Whaddon Road site, closure of the left-hand car park and removal of the skips. He also noted that no advertising would be undertaken, but instead there would be a reliance on word of mouth, resident liaison meetings could be arranged on a regular or ad-hoc basis and residents could be provided with a list of upcoming events if they so wished.

Paul Godfrey reassured members and residents that Cheltenham Football Club was a community club and did not want to create conflict. In fact, living close to the site himself, he had been central in arranging access to the car park for parents of children at the School during drop off/pick up times. He highlighted that the events market in Cheltenham was very competitive and the application did not constitute an attempt to compete for business with large hotels or venues including the racecourse. He felt it was far more likely that the premises would be used for internal presentations, corporate events, children's parties, etc, with the income being used towards upkeep of the site. There had been queries regarding Temporary Events Notices (TENs) and why the club could not simply use TENs to hold events, but these were limited to 12 per year, required 10 days notice and as such, did not offer the flexibility of a licence.

John Murphy gave the following responses to member questions;

- The financial burden of the rental costs had been eased by sharing the site with three others. The site was already used so extensively that the applicants did not envisage raising more than £5k per year, which would be considered a nice addition to the budget.
- The three others sharing the site were a masseuse, a gym and an engineering architect, all of whom sub let from Zurich and for whom events did not form part of their rental agreement.

- The bar staff would come from the Whaddon Road facility where they were employed full time. No additional full time staff would be employed at the Quat Goose Lane site.

Once members had concluded their questioning of the applicants, the Chairman invited representatives of the objectors to address the committee.

Councillor Bernie Fisher spoke as the relevant Ward Member. The principle concern of residents was the resulting noise of those leaving the premises late at night. He asked that taxi's be encouraged to drop off and pick up from the site itself rather than on the corner of Quat Goose Lane.

Gerald Ford addressed the committee on behalf of this daughter and other residents of Sumner Court, who had objected to the application. Given the proximity of Sumner Court to the left-hand car park, residents overarching concerns was that noise would be an issue, especially given the number of residents with children under the age of seven. Whilst the site was being well run by the club, the application seemed to indicate an apparent change of use from sports to events. He asked that members consider making the following conditions of the licence; security guard, only using the right-hand car park, the use of a noise limiter, contact numbers for neighbours and perhaps a review of the licence in 12 months time. These were sincerely held concerns of the residents and it was hoped that the sub committee would give them due consideration.

In response to a question from a member of the sub committee, Gerald Ford accepted that concerns about noise were based on past experiences with those that previously occupied the site.

Members of the Sub Committee did not dispute that residents had genuine concerns about noise resulting from any late night events and the Solicitor reassured members that should the application be granted, objectors would have 21 days right of appeal to the Magistrates Court and should their fears come to fruition they could request a review of the licence at any time.

The applicants gave the following responses to questions from members;

- It would be surprising for a taxi not to enter the site to drop off/pick up given that there was a turning circle.
- Events would be a small operation with no full time staff, with income being used to maintain the facility.
- Each event raised approximately £150. After having paid bar staff and the security professional, events would no longer be financially viable if a car park attendant also had to be employed. The left-hand car park would be blocked with bollards and signs would be displayed.
- Clear up of an evening event would take place the following day. Bottles would be put behind the bar at the end of an evening and then taken to the Whaddon Road facility the following day, ready for collection by Carlsberg. There was no provision for Carlsberg to visit the Quat Goose Lane site.
- A security guard would be tasked with preventing people from congregating and consuming alcohol in the car park.

Following a query raised by the Chairman, Gerald Ford confirmed that the site had been built some 35 years ago, with the addition of Sumner Court, 7 years ago.

In summing up, John Murphy said the facility had been designed as a sport and social club and it would therefore be remiss of them not to use it as such and benefit from any associated income. He assured members and residents that minimising disruption was of the utmost importance to the applicants.

The Sub Committee adjourned to deliberate their decision at 10:48am.

The Sub Committee reconvened at 11:20am and the Chairman read the following statement;

In respect of the application from Cheltenham Town Association Football Club Limited of the Football Club's training and function facility at Quat Goose Lane, Cheltenham;

The sub committee has read the material presented to it and has listened to all of the evidence and submissions. The sub committee in coming to its decision has also considered the four licensing objectives, the national guidance and the council's statement of policy.

The decision of the sub committee is as follows:-

The application for determination of a premises licence be granted.

There will be the following conditions added to the licence:-

1. All of the steps outlined in 2.3 on page 2 of the report will be incorporated in to conditions of the licence; this included implementing a challenge 25 scheme.
2. There will be no alcohol consumption to take place in the car park.
3. There will be a security guard present at each event.
4. All members of the public to vacate the premises by midnight.

The sub committee recommends the following:-

1. There be a residents liaison meeting when required. The applicant to provide contact numbers/email addresses to residents.
2. The applicant to take steps to ensure that taxi's use the car park not the road.
3. The applicant to take steps to encourage the use of the right hand side car park and not the left.

The sub committee has placed these conditions on the licence for the purpose of promoting all four of the licensing objectives and the potential noise disturbance on local residents.

In all other respects the sub committee has found that the licensing objectives are satisfied and the conditions imposed on the licence will ensure that the licence meets those objectives.

The interested parties are reminded that should the applicant fail to meet the licensing objectives, that they can report matters to the licensing authority and the applicant and that licence can be subject to a review.

He explained that no conditions had been set in relation to the car park as members of the Sub Committee were concerned that on occasions when the right-hand car park was full, people would instead use the road, which members considered to be a worse scenario than use of the left-hand car park.

Members considered it acceptable for Councillor Fisher to assist in the arrangement of any resident liaison meetings.

Upon a vote it was unanimously;

RESOLVED that the application is granted as requested, with the relevant conditions.

Chairman
Councillor Whyborn

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Licensing Committee – 1 August 2014

Renewal of Private Hire Driver's Licence

Mr Akekur Babu Rahman - PHD369

Report of the Licensing & Business Support Team Leader

1. Executive Summary and Recommendation

- 1.1 An application has been received from Mr Akekur Rahman for a renewal of his Private Hire driver's licence.
- 1.2 Mr Rahman has a number of convictions. The details of these are contained in the enclosed background papers.
- 1.3 In light of this Members of the Committee should be aware of the convictions because of:
- 1.3.1 The nature of the offences; and
- 1.3.2 The need to ensure that Mr Rahman is judged to be a fit and proper person to hold a Private Hire Driver's Licence.
- 1.4 **The Committee is recommended to resolve that Mr Rahman's renewal be:**
- 1.4.1 **granted with no further action taken as the committee considers Mr Rahman to be a fit and proper person to hold a private hire driver's licence, or**
- 1.4.2 **revoked as the committee considers Mr Rahman to no longer be a fit and proper person to hold private hire driver's licence.**

1.5 Implications

1.5.1 Financial

Contact officer: Sarah Didcote
E-mail: sarah.didcote@cheltenham.gov.uk
Tel no: 01242 264125

1.5.2 Legal

There is a right of appeal against a refusal to renew a licence which, in the first instance, is to the Magistrates' Court.
Contact officer: Vikki Fennell
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2. Background

- 2.1 The Borough Council must be satisfied that the holder of a Private Hire Drivers licence is a fit and proper person to hold that licence (Section 59 Local Government (Miscellaneous Provisions) Act 1976).

3. Policy Considerations

- 3.1 Decision making in relation to licensing is an onerous duty, dealing with both the livelihood of the

Licensee/Applicant and the risks to the safety and comfort of the public.

- 3.2 Each case will be decided on its own merits. The Council will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision.
- 3.3 The overriding consideration is the safety of the public. The Council has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment.
- 3.4 Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour which will be taken into account.

3.5 Hybrid Traffic Offences

- CU10 Using vehicle with defective brakes
- CU20 Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition.
- CU30 Using a vehicle with defective tyre(s)
- CU40 Using a vehicle with defective steering
- CU50 Causing or likely to cause danger by reason of load or passengers
- CU80 Using a mobile phone while driving a motor vehicle
- SP10 Exceeding goods vehicle speed limit
- SP20 Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
- SP30 Exceeding statutory speed limit on a public road
- SP40 Exceeding passenger vehicle speed limit
- SP50 Exceeding speed limit on a motorway
- SP60 Undefined speed limit offence

- 3.6 Offences of the type listed above will be treated as major traffic offences if the court awarded 4 or more penalty points for the offence and as minor traffic offences if the court awarded 3 or less penalty points for the offence.

3.7 Minor Traffic Offences

Isolated convictions for minor traffic offences should not prevent a person from proceeding with an application. However, the number, type and frequency of this type of offence will be taken into account and if there are several offences of this nature the applicant will normally be expected to show a period free of conviction of at least 6 months.

In particular, an application will normally be refused where the applicant has received 12 or more penalty points on his DVLA licence in the five years prior to the application being made (whether or not the applicant was convicted by a court for the offences for which the points were imposed) or where the applicant has more than one conviction for this type of offence within the last 6 months.

4. Licensing Comments

- 4.1 Mr Rahman was interviewed on 8 July 2014. The interview notes state:

“Mr Rahman struggled to remember any details of the offence committed on 30/09/2012 for exceeding the speed limit and said he thought this was already dealt with in the previous committee in June 2012. It was explained to Mr Rahman that the offence occurred three months after the date of committee. Mr Rahman did not notify the local authority of any points received for the offence.

Mr Rahman explained that the offence committed on 03/05/2013 was for speeding on the M5. There was a speed restriction of 50MPH on the M5 due to roadworks, Mr Rahman attempted to slow down when approaching the speed restriction but was still over the limit. Mr Rahman did not notify the local authority of any points received for the offence.

Mr Rahman also explained that he did not report the offence as he was waiting for his DVLA licence to be returned.”

- 4.2 For information, Mr Rahman’s licence was reviewed in June 2012 and whilst the committee decided not to take any formal action then, Mr Rahman was warned at the time of safe driving techniques and warned that his licence will again be called in for review should he not heed the Council’s warning. A copy of that letter is attached at **Appendix A**.
- 4.3 Mr Akekur Babu Rahman has been sent a copy of this report and invited to attend this meeting to speak in support of his application and to answer members’ questions or to be represented. In considering the application on its own merits Members should have regard to the adopted Probity Guide.
- 4.4 The Committee must be satisfied that Mr Akekur Babu Rahman is a fit and proper person before agreeing to the grant of a licence. The refusal recommendation is based upon the policy guidelines and public safety given the close contact that licensed drivers maintain with members of the public.

Background Papers

Service Records

Convictions

Committee report and minutes – June 2012

Report Author**Contact officer:** Louis Krog**E-mail:** licensing@cheltenham.gov.uk**Tel no:** 01242 775004

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CHELTENHAM
BOROUGH COUNCIL

Mr Akekur Babu Rahman
44 Cottage Rake Avenue
Cheltenham
Gloucestershire
GL50 4RH

ask for: Miss Amelia Mercer
ddi number: 01242 264217
fax number: 01242 774924
email: licensing@cheltenham.gov.uk
our ref: 11/00862/PHD3YR
your ref:
date: 6 June 2012

PRIVATE & CONFIDENTIAL

Dear Mr Rahman,

LICENSING COMMITTEE – 1 June 2012
Private Hire 3yr Driver Renewal

Your application was heard before Cheltenham Borough Council's Licensing Committee on 1 June 2012. You were invited to attend the meeting and to address the Committee.

Taking into account all the relevant facts the Licensing Committee decided that your Private Hire Drivers licence be permitted to continue but that you be required to successfully undertake, at your own expense, a road safety unit driver assessment within three months of the decision date. In light of this, I can confirm that you must have undertaken the driver assessment and submit the pass certificate no later than the 1st September 2012. Failure to do so will result in an application for a further review of your Private Hire drivers licence.

Furthermore, the Licensing Committee also decided that you be reminded by letter of the importance that the Council attaches to public safety and safe driving techniques.

The purpose of the licensing system is to ensure that drivers are fit and proper persons to hold such a licence with the overriding consideration of public safety. For this reason, the Council does attach great importance to safe driving techniques and will therefore not hesitate to review your licence again if you accrue any further penalty points on your licence or are convicted of any, amongst others further driving offences.

Please find attached contact details of the driver assessment unit in order to book your test.

If you have any other enquiries please don't hesitate to contact me.

Yours Sincerely,

Senior Licensing Officer



INVESTOR IN PEOPLE

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Briefing Notes

Committee name: Licensing Committee

Date: 1 August 2014

Responsible officer: Louis Krog, Licensing & Business Support Team Leader

Law Commission Report and Draft Taxi & Private Hire Services Bill

On the 23rd of May, the Law Commission published its report and draft Taxi & Private Hire Services Bill.

Background

The Law Commission project, to review the legal framework relating to taxis and private hire vehicles across England and Wales, was originally proposed by the Department for Transport, which has policy responsibility in this area.

The purpose of the project was to make the legal framework relating to taxis and private hire vehicles simpler and more modern given that the two pieces of primary legislation relating to these date back to 1847 and 1974.

Recommendations

The Law Commission made 84 recommendations in total. Attached to this briefing note is a summary of the proposals for Members' information.

The full (280 page) report and draft Bill is available on the Law Commission's website (<http://lawcommission.justice.gov.uk/areas/taxi-and-private-hire-services.htm>).

Moving forward

The Government has one year to consider the report and draft Bill but has already stated that it does not intend to introduce the new Bill before the next general election in May 2015. Whether the Bill will be introduced and when will largely depend on who is in Government after the next election and what their priorities are.

In any event, it is not expected that the draft Bill will be introduced for at least 18-24 months.

The Committee will be kept up to date as and when required.

Deregulation Bill

The Deregulation Bill is the Coalition Government's flagship Bill for pushing through its cutting red tape agenda.

The Bill is currently making its way through the Parliamentary process and the purpose of this briefing note is to outline the Bill's licensing deregulatory proposals.

Alcohol/entertainment licensing

- Temporary Event Notices (TENs) - increasing permitted number of TENs from 12 to 15 per calendar year (to have effect for the year 2016 and subsequent years);
- Personal Licences - abolishing the need to renew personal licences;
- Liqueur Confectionary - repealing the offence of selling liqueur confectionary to under 16s;
- Late Night Refreshment - enabling Licensing Authorities to make certain exemptions for Late Night Refreshment including exemptions for part of their areas or for certain types of premises or during a designated period between the hours of 23.00 and 05.00;
- Reporting loss or theft of licence – removal of requirement to report loss or theft of premises licence, TEN or personal licence to Police before a duplicate can be issued;
- Exhibition of films - Deregulating film exhibitions at community premises subject to certain conditions including that films must be provided between 08.00 and 23.00 and for an audience of no more than 500 persons;
- Community and Ancillary Seller Notices – introduce a new “light touch” procedure for authorising the sale of alcohol where the sale is ancillary to a community event or to the provision of other goods or services by a business.

Taxi/Private Hire licensing

- Private Hire vehicles - to lift the restriction on who can drive a Private Hire vehicle so to allow anyone with an ordinary driving licence to drive a private hire vehicle when it is off duty.
- Taxi and private hire vehicles - proposal to amend the standard duration of driver's licences (private hire and hackney carriages) to three years and the standard for private hire operator's licence to five years.
- Private Hire operators - proposed changes to allow private hire operators to sub contract bookings to other operators licensed in different local authority areas.

Licensing General

- No later than the end of the period of six months beginning with the day on which this Act is passed, the Secretary of State must commence a cross-government review of all legislation relating to local authority licensing, consents, permits and registrations.
- The review must include a review of whether, and if so, how the legislation can be simplified and consolidated.
- A report on the review must be presented to Parliament by the Secretary of State no later than the end of the period of 24 months beginning with the day on which the review is commissioned.

Members are to note that these deregulatory proposals are only proposals at this stage and again officers will continue to update Members at the appropriate times.

Mandatory Licence Conditions – Sale/Supply of Alcohol

Licensing Act 2003 (Mandatory Licensing Conditions) (Amendment) Order 2014

Each and every alcohol licence is issued with a number of mandatory licence conditions. These relate to:

1. banning certain drinks games and promotions;
2. requirement on premises to make free tap water available to customers;
3. mandatory age verification policies; and
4. requirement to make alcohol available in smaller measures.

The Government has now made changes to these mandatory conditions which are due to come into effect in October 2014.

The main changes are set out in the table below:

2014 Order

2010 Order

Schedule 1(1) "The responsible person **must** ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises."

The responsible person **shall take all reasonable steps** to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

Schedule 1(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises ~~in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children—~~

Schedule 1(2)(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic **in a manner which carries a significant risk of undermining a licensing objective;**

provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic ~~(other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);~~

Schedule 1(2)(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less **in a manner which carries a significant risk of undermining a licensing objective;**

provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

Schedule 1(2)(d) – Completely removed in 2014 order, i.e.:

provision of free or discounted alcohol in

that to the viewing on the premises of a sporting event, where that provision is dependent on—

- (i) the outcome of a race, competition or other event or process, or
- (ii) the likelihood of anything occurring or not occurring;

Schedule 1(2) The responsible person **must** ensure that **free potable water** is provided on request to customers where it is reasonably available. The responsible person **shall** ensure **that free tap water** is provided on request to customers where it is reasonably available.

Schedule 1(3)(1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol. (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and **either—**

(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark

(a) a holographic mark, or

(b) an ultraviolet feature.

Schedule 1(4) The responsible person **must** ensure that— The responsible person **shall** ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml; and

(b) these measures are displayed in a

(b) customers are made aware of the availability of these measures.

(c) where a customer does not in relation
to a sale of alcohol specify the quantity of
alcohol to be sold, the customer is made
aware that these measures are available.”

Entertainment Deregulation

The Legislative Reform (Entertainment Licensing) Order 2014

The Government has proposed further deregulation of regulated entertainment **due to come into force in April 2014**.

The Legislative Reform Order (“LRO”) will:

1. Extend current exemptions for **live music** in alcohol licensed premises, workplaces and community premises (i.e. exempt if it takes place between 08:00-23:00 on the same day for audiences of up to 500).
2. Exemption for travelling circuses, except an exhibition of a film or a boxing or wrestling entertainment, where the entertainment or sport takes place between 08:00-23:00 on the same day with no audience limit.
3. Greco-Roman and freestyle wrestling will be deregulated between 08:00-23:00 for audiences of up to 1000 people.
4. Unconditional exemption for the exhibition of a film where the exhibition is incidental to another activity that is itself not regulated entertainment.

The fifth aspect of this round of deregulation is a complete deregulation for “trusted partners” that includes local authorities¹. The effect of this exemption is that **any** entertainment put on either on behalf of, or by the local authority, and on premises/land owned by the local authority, will be completely exempt from requiring an entertainment licence.

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¹ Other “trusted partners” includes health care providers and schools.

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LIST OF RECOMMENDATIONS

CHAPTER 2 – RETAINING THE TWO TIER SYSTEM

Recommendation 1

We recommend retaining the two-tier system. Regulation should continue to distinguish between taxis, which can be hailed or use ranks, and private hire vehicles, which can only be pre-booked. (*Page 16*)

CHAPTER 3 – REFORM OF DEFINITIONS AND SCOPE

Recommendation 2

We recommend that the offences relating to plying for hire should be abolished. We propose replacing the concept of plying for hire with a new scheme of offences, resting on the principal prohibition of carrying passengers for hire without a licence, alongside a new offence making it unlawful for anyone other than a local taxi driver to accept a journey starting “there and then”. (*Page 22*)

Recommendation 3

We recommend a statutory definition of pre-booking in order to create a clear distinction between the work of a taxi in its licensing area and the work of a private hire vehicle. (*Page 22*)

Recommendation 4

We recommend that the term “hackney carriage” should be replaced in legislation with the word “taxi”. The term “private hire vehicle” should remain unchanged. (*Page 24*)

Recommendation 5

We recommend that only the providers of licensed taxi services should be allowed to describe themselves using the term “taxi” on vehicles or in advertising materials. (*Page 24*)

Recommendation 6

Operators across England and Wales (dispatchers under our Bill) should be under a duty to provide a price or an estimate of the fare on request, as is already the case in London. (*Page 26*)

Recommendation 7

We recommend that taxis picking up passengers outside their licensing area should be subject to a pre-booking requirement, which would be statutorily defined for the first time. This would require provision of an estimate of the price for the journey in advance, if requested, and record-keeping obligations. These requirements could be further refined through national standards as set by the Secretary of State. (*Page 32*)

Recommendation 8

We do not recommend the introduction of record-keeping requirements in respect

of taxis except where they are picking up passengers outside their licensing area. *(Page 32)*

Recommendation 9

We recommend that local authority stopping officers should have a new enforcement power to require licensed vehicles to move on where the officer considers that:

- (1) there is a reasonable likelihood that the public may believe the vehicle is available for immediate hire;
- (2) the vehicle is causing an obstruction to traffic flow; or
- (3) the driver is attempting to take work away from ranked taxis. *(Page 33)*

Recommendation 10

We recommend introducing a new offence which makes it unlawful for anyone other than a locally licensed taxi driver to accept a booking for a journey starting there and then. *(Page 34)*

Recommendation 11

We recommend that compellability should be retained in its current form. It should be open to licensing authorities to express compellability as a time or distance from the point of hire, or as extending to the boundaries of a licensing zone. Licensing authorities should also be able to extend the compellable distance up to seven miles beyond the boundary of the licensing area, or twenty miles in the case of Transport for London. *(Page 37)*

Recommendation 12

Licensing authorities should have the power to make a determination that in their areas, taxis should be under a duty to stop when hailed. In such areas, it would be an offence for a taxi driver in a vehicle displaying a “for hire” sign to fail to stop in response to a hail, without reasonable excuse. *(Page 38)*

Recommendation 13

Licensing authorities should be under a duty to consult on the need to alter rank provision; and to consider whether new ranks should be appointed, or current ones moved or removed, on a periodic basis not exceeding every three years. *(Page 39)*

Recommendation 14

We recommend that those acting in the course of a business who pass taxi or private hire bookings to providers who they know or suspect to be unlicensed should be guilty of an offence. *(Page 41)*

Recommendation 15

We do not propose to require intermediaries working solely with licensed taxis (which we refer to as “radio circuits”) to be licensed. *(Page 44)*

Recommendation 16

We recommend that licensed operators (in future to be referred to in legislation as “dispatchers”) should be retained as a necessary element of the regulation of private hire services. *(Page 46)*

Recommendation 17

We recommend that operator licensing should only cover dispatch functions, and no longer apply to the invitation or acceptance of bookings as such. However, if it is shown that an individual or company accepted a hire vehicle booking, a presumption should arise that that person also “dispatched” the driver. This ensures the continued accountability of those who, in the course of business, accept hire vehicle bookings from the public. *(Page 48)*

Recommendation 18

It should also be an offence, in the course of business, to dispatch an unlicensed vehicle or driver. It would also be an offence for a person to dispatch a private hire vehicle and driver unless that person holds a dispatcher’s licence. It would be a defence if the driver and vehicle were reasonably believed to hold appropriate taxi licences. *(Page 48)*

Recommendation 19

Persons accepting a hire vehicle booking in the course of business should be under a duty to provide information to the hirer in respect of any person on to whom they passed the booking. *(Page 48)*

CHAPTER 4 – DEFINITIONS AND SCOPE

Recommendation 20

We recommend that our proposed reforms should extend to all of England and Wales, including London and Plymouth. *(Page 55)*

Recommendation 21

Taxi and private hire licensing should cover vehicles regardless of their form or construction, including non-motorised vehicles. *(Page 57)*

Recommendation 22

We recommend that taxi and private hire licensing requirements should only cover services provided for commercial gain. *(Page 63)*

Recommendation 23

We recommend that taxi and private hire licensing should not cover the carriage of a passenger as an ancillary or incidental part of another service. *(Page 63)*

Recommendation 24

We recommend that, for the purposes of taxi, private hire and public service vehicle legislation, all passenger seats and spaces capable of carrying a standing passenger should be included when assessing vehicle carrying capacity. *(Page 66)*

Recommendation 25

We recommend that consideration be given to revising the criteria for licensing a vehicle as a “small public service vehicle” , making them more clearly centred on local bus services. *(Page 67)*

Recommendation 26

We recommend extending the reach of taxi and private hire licensing to larger vehicles in two circumstances:

- (a) on a mandatory basis, in respect of stretch limousines and novelty vehicles; and
- (b) on an optional basis, where providers want to use larger vehicles in a taxi or private hire business. *(Page 70)*

Recommendation 27

We recommend that the Secretary of State should have the power to exempt certain categories of vehicle or services used to carry passengers for hire from the requirement to hold a taxi or private hire licence. Licensing authorities would, however, retain the power to impose licensing requirements on vehicles used as taxis within their local licensing area. *(Page 71)*

Recommendation 28

We recommend that wedding and funeral cars should continue to be exempt from taxi and private hire licensing while the vehicle is being used in connection with a wedding or a funeral. *(Page 74)*

Recommendation 29

Non-professional use of licensed taxi and private hire vehicles, including by non-professional drivers, should be permitted, subject to a rebuttable presumption that such vehicles are being used professionally when they are carrying passengers. *(Page 77)*

CHAPTER 5 – COMMON NATIONAL STANDARDS FOR TAXI AND PRIVATE HIRE

Recommendation 30

We recommend the introduction of national standards for taxi and private hire services. *(Page 80)*

Recommendation 31

National standards should promote enforcement, protection of the environment and accessibility, in addition to safety. *(Page 82)*

Recommendation 32

National standards for taxi services should be comparable but not necessarily identical to national standards for private hire services. *(Page 82)*

Recommendation 33

We recommend that driver and vehicle standards should be set in secondary legislation by the Secretary of State. *(Page 84)*

Recommendation 34

The standard setting power of the Secretary of State should be subject to a statutory consultation requirement. *(Page 91)*

Recommendation 35

We recommend that the ability to apply for a vehicle licence should no longer be restricted to vehicle owners. *(Page 93)*

Recommendation 36

Applicants for vehicle licences should not be subject to a fit and proper person test. *(Page 95)*

Recommendation 37

We recommend that licensing authorities should not have a general power to impose individual conditions on the holders of taxi or private hire licences. *(Page 98)*

CHAPTER 6 – CRIMINAL OFFENCES SPECIFIC TO THE TAXI AND PRIVATE HIRE TRADES

Recommendation 38

We recommend that the Secretary of State should exercise the standard setting power to provide that a conviction for specified offences is a breach of a licensing condition, or incompatible with eligibility to hold a licence. *(Page 101)*

Recommendation 39

The Secretary of State should have the power to designate specific licence conditions, breach of which will amount to a criminal offence. *(Page 102)*

CHAPTER 7 – NATIONAL STANDARDS FOR PRIVATE HIRE

Recommendation 40

Private hire services should only be subject to national standards. Licensing authorities should no longer have the power to impose local conditions. *(Page 104)*

Recommendation 41

We recommend that dispatchers should continue to be subject to fit and proper person requirements as part of national standards. *(Page 105)*

Recommendation 42

We recommend that dispatchers should be subject to a statutory duty to maintain records in such form as may be prescribed by the Secretary of State. *(Page 107)*

Recommendation 43

Signage requirements for private hire vehicles should form part of the national standards determined by the Secretary of State. The Secretary of State should impose requirements that aim to ensure that the public are able to distinguish easily between taxis and private hire vehicles. *(Page 112)*

Recommendation 44

We recommend that operator/dispatchers should no longer be restricted to working only with drivers and vehicles whose licences are issued by the same licensing authority as the dispatcher. *(Page 115)*

Recommendation 45

Dispatchers should have the ability to sub-contract bookings to any dispatcher in England and Wales. *(Page 117)*

CHAPTER 8 – LOCAL TAXI STANDARDS

Recommendation 46

We recommend that licensing authorities should retain the power to set local taxi standards over and above national standards. *(Page 120)*

Recommendation 47

Licensing authorities should be required to consult on additional licensing conditions for taxi drivers and vehicles. *(Page 121)*

CHAPTER 9 – TAXI FARE REGULATION

Recommendation 48

Licensing authorities should retain the ability to regulate taxi fares, in respect of any journey within the compellable distance. *(Page 125)*

Recommendation 49

A taxi driver should be allowed to charge more than the metered fare for journeys starting inside the licensing area and ending beyond the compellable distance only if this is agreed in advance. In the case of pre-booked journeys starting outside the compellable distance the price or an estimate should be given on request and, if so, recorded. *(Page 125)*

Recommendation 50

We recommend that licensing authorities should retain the power to regulate fares charged for pre-booked taxi journeys. However, there should be no power to regulate third party booking fees, provided these are agreed in advance. *(Page 130)*

CHAPTER 10 – ADMINISTRATION OF THE LICENSING SYSTEM

Recommendation 51

The principle of cost recovery should continue to apply in respect of taxi and private hire licensing fees. *(Page 134)*

Recommendation 52

Licensing authorities should be able to collect and use licensing fees from taxi and private hire licensing only for the following purposes:

- (1) administration of the licensing system (including but not limited to processing applications for granting or renewing licences and carrying out inspections and tests);
- (2) statutorily required reviews of fare levels, rank provision, accessibility and existing quantity restrictions at least every three years;
- (3) enforcement of the licensing system including but not limited to the control and supervision of taxi and private hire services (whether licensed or unlicensed) and activities associated with suspending or revoking licences; and
- (4) providing taxi ranks. *(Page 134)*

Recommendation 53

We recommend that the Secretary of State should set a private hire licensing fee which could not be varied locally. Taxi licensing fees should continue to be set locally, but at a level no lower than the national private hire fee. *(Page 135)*

Recommendation 54

We recommend that the Secretary of State should have the power to set up a system of pooling private hire licence fees nationally, for the purposes of redistributing these to reflect enforcement needs, in accordance with such a scheme as may be prescribed. *(Page 136)*

Recommendation 55

Licensing authorities should have the power to combine their taxi and private hire licensing areas. *(Page 138)*

Recommendation 56

We recommend that licensing authorities should be under a duty to publish their driver, vehicle and operator licensing data in such form as the Secretary of State may require. *(Page 140)*

Recommendation 57

Licensing authorities should have a more flexible power to introduce and remove taxi licensing zones. This power would permit removal or introduction of zones within a licensing district. The power should be subject to consultation and a statutory public interest test. *(Page 143)*

CHAPTER 11 – QUANTITY RESTRICTIONS

Recommendation 58

We recommend that licensing authorities should continue to have the power to limit the number of taxi vehicles licensed in their area. (*Page 159*)

Recommendation 59

The power of licensing authorities to impose quantity restrictions should be subject to a statutory public interest test. Further, the Secretary of State should have regulation-making powers prescribing how the statutory test should be applied. (*Page 162*)

Recommendation 60

Decisions to restrict taxi numbers should be reviewed at least every three years and be subject to local consultation in accordance with such procedures as may be prescribed in regulations made by the Secretary of State. (*Page 162*)

Recommendation 61

In licensing areas where quantity restrictions already exist at the time of the introduction of our reforms, but not in other areas, vehicle licence holders should continue to be able to transfer their taxi licences at a premium. (*Page 166*)

CHAPTER 12 – ACCESSIBILITY

Recommendation 62

We recommend that taxi and private hire drivers be required to undergo disability awareness training of a standard set by the Secretary of State. (*Page 170*)

Recommendation 63

We recommend that the Secretary of State require information on how to complain about taxi and private hire vehicle services to be displayed in taxi and private hire vehicles. (*Page 171*)

Recommendation 64

We recommend that local licensing authorities should display complaint information in offices, libraries and on websites. (*Page 171*)

Recommendation 65

We recommend that licensing authorities conduct an accessibility review at three year intervals. (*Page 172*)

Recommendation 66

We recommend that the Secretary of State require holders of taxi and private hire driver licences and dispatcher licences to comply with the Equality Act 2010 as a condition of the licence. (*Page 175*)

Recommendation 67

We recommend that licensing authorities should reconsider rank design to ensure compliance with the Equality Act 2010. (*Page 177*)

Recommendation 68

We recommend that licensing conditions should provide that information about the licensing authority and local operators should be provided in alternative formats, as well as information about the types of vehicle available in their area. *(Page 177)*

Recommendation 69

We recommend that the Secretary of State should have the power to impose accessibility requirements on large operator/dispatchers. In particular, the power should permit the setting of quotas of accessible vehicles which must be available to such dispatchers. *(Page 179)*

CHAPTER 13 – ENFORCEMENT

Recommendation 70

We recommend that licensing officers who have been suitably trained and accredited should be given the power to stop licensed taxi and private hire vehicles in a public place for the purpose of checking compliance with licensing requirements. *(Page 183)*

Recommendation 71

The offence of touting should be retained. It should continue to be an offence of broad application which extends to all persons, whether licensed or unlicensed. *(Page 187)*

Recommendation 72

We recommend that there should be a new defence to touting, where the solicitation is in respect of a licensed taxi or private hire vehicle, if the soliciting occurs in a place which has been designated by that licensing authority for that purpose, and that conditions as may be specified by the licensing authority have been complied with. *(Page 187)*

Recommendation 73

We recommend that the Sentencing Council consider amending the Magistrate's Court Sentencing Guidelines in respect of taxi touting to take into account the vulnerability of the persons solicited as a relevant factor in sentencing. *(Page 189)*

Recommendation 74

We recommend that licensing authorities should have the power to impound vehicles used in connection with touting. *(Page 193)*

Recommendation 75

Fixed penalties should be among the sanctions available in respect of minor criminal offences under taxi and private hire legislation. *(Page 195)*

Recommendation 76

We recommend extending the power to suspend licences immediately on grounds of public safety to all licence types, in line with the current position in

London. (*Page 196*)

Recommendation 77

Licensing officers should be able to take non-criminal enforcement action against vehicles, drivers and operators, licensed outside their licensing area. (*Page 198*)

Recommendation 78

We recommend that powers to revoke a licence should be available only to the licensing authority which issued that licence. However, enforcement officers in another area should have the power to:

- (a) suspend a licence when they consider this to be necessary in the interests of public safety; and
- (b) make recommendations to the home licensing authority as to appropriate sanctions, to which the home authority must have regard. (*Page 200*)

CHAPTER 14 – HEARINGS AND APPEALS

Recommendation 79

The right to appeal against refusals to grant or renew taxi and private hire licences or to suspend or revoke them should be limited to the applicant or licence holder. (*Page 202*)

Recommendation 80

We recommend that the first stage in the appeal process in respect of refusals, suspensions or revocations of licences should be the right to require licensing authorities to reconsider the original decision. Appellants should have the right to bypass this stage and proceed direct to the magistrates' court. (*Page 206*)

Recommendation 81

We recommend that all taxi and private hire licensing appeals should be heard in the magistrates' court. (*Page 209*)

Recommendation 82

We recommend the retention of an onward right of appeal to the Crown Court. (*Page 210*)

Recommendation 83

We recommend that applicants for a vehicle licence for an opt-in vehicle should have a right of appeal to the Upper Tribunal if their application is refused on the basis of an objection by the Senior Traffic Commissioner. (*Page 210*)

Recommendation 84

We recommend that a County Court judicial review procedure along the lines provided under the Housing Act 1996 should be available to challenge taxi conditions set by licensing authorities. (*Page 212*)