

Licensing Committee

14 February 2019



Time and venue:

10.00am in the Ditchling Room, Southover House, Southover Road, Lewes, BN7 1AB

Membership:

Councillor Sam Adeniji (Chair); Councillors Liz Boorman, Wayne Botting, Bill Bovington, Will Elliott, Stephen Gauntlett, Jackie Harrison-Hicks, Isabelle Linington, Andy Loraine and Tony Rowell

Quorum: 3

Published: Tuesday, 5 February 2019

Agenda

1 Minutes (Pages 1 - 2)

To confirm and sign the minutes of the previous meeting held on 11 December 2018 (attached herewith).

2 Apologies for absence/declaration of substitute members

3 Declarations of interest

Disclosure by councillors of personal interests in matters on the agenda, the nature of any interest and whether the councillor regards the interest as prejudicial under the terms of the Code of Conduct.

4 Urgent items

Items not on the agenda which the Chair of the meeting is of the opinion should be considered as a matter of urgency by reason of special circumstances as defined in Section 100B(4)(b) of the Local Government Act 1972.

5 Written questions from councillors

To deal with written questions from councillors pursuant to Council Procedure Rule 12.3 (page D8 of the Constitution).

6 Street trading review in Lewes District (Pages 3 - 68)

Report of Director of Service Delivery

7 Approval of licensing fees 2019/20 (Pages 69 - 84)

Report of Director of Service Delivery

8 Taxi licensing guidance review (Pages 85 - 210)

Report of Director of Service Delivery

9 Date of next meeting

To note that the next meeting of the Licensing Committee will be called as necessary.

Information for the public

Accessibility: Please note that the venue for this meeting is wheelchair accessible and has an induction loop to help people who are hearing impaired. This agenda and accompanying reports are published on the Council's website in PDF format which means you can use the "read out loud" facility of Adobe Acrobat Reader.

Filming/Recording: This meeting may be filmed, recorded or broadcast by any person or organisation. Anyone wishing to film or record must notify the Chair prior to the start of the meeting. Members of the public attending the meeting are deemed to have consented to be filmed or recorded, as liability for this is not within the Council's control.

Public participation: Please contact Democratic Services (see end of agenda) for the relevant deadlines for registering to speak on a matter which is listed on the agenda if applicable.

Information for councillors

Disclosure of interests: Members should declare their interest in a matter at the beginning of the meeting.

In the case of a disclosable pecuniary interest (DPI), if the interest is not registered (nor the subject of a pending notification) details of the nature of the interest must be reported to the meeting by the member and subsequently notified in writing to the Monitoring Officer within 28 days.

If a member has a DPI or other prejudicial interest he/she must leave the room when the matter is being considered (unless he/she has obtained a dispensation).

Councillor right of address: A member of the Council may ask the Leader, a Cabinet Member or the Chair of a committee or sub-committee any question without notice upon an item of the report of the Cabinet or a committee or subcommittee when that item is being received or under consideration by the Council.

A member of the Council may ask the Chair of a committee or sub-committee a question on any matter in relation to which the Council has powers or duties or which affect the District and which falls within the terms of reference of that committee or subcommittee.

A member must give notice of the question to the Head of Democratic Services in writing or by electronic mail no later than close of business on the fourth working day before the meeting at which the question is to be asked.

Democratic Services

For any further queries regarding this agenda or notification of apologies please contact Democratic Services.

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Licensing Committee

Minutes of meeting held in the Ditchling Room, Southover House, Southover Road, Lewes, BN7 1AB, on 11 December 2018 at 4.00pm

Present:

Councillor Sam Adeniji (Chair)

Councillors Bill Bovington, Jackie Harrison-Hicks and Isabelle Linington

Officers in attendance:

Sue Lindsey (Specialist Advisor - Licensing), Jennifer Norman (Committee Officer) and Michele Wilkinson (Lawyer - Housing & Regulatory)

8 Minutes

The minutes of the meeting held on 3 July 2018 were submitted and approved, and the Chair was authorised to sign them as a correct record.

9 Apologies for absence/declaration of substitute members

Apologies for absence had been received from Councillors Liz Boorman, Will Elliott, Stephen Gauntlett and Tony Rowell.

10 Declarations of interest

There were none.

11 Urgent items

There were none.

12 Review of Lewes District Council's Gambling Statement of Principles

The Committee received the report which requested that Members consider and approve the recently reviewed and revised Statement of Gambling Principles.

The Senior Specialist Advisor (Licensing) referred to Appendix 1 which detailed the proposed changes to the Council's Statement of Gambling Principles. She explained that members of Licensing department had recently

attended a meeting with the Gambling Commission at which time it was recommended that all current premises license holders be required to undertake risk assessments and have the assessments available for inspection at the premises.

The Committee queried if the risk assessments related solely to new gambling related applications. The Senior Specialist Advisor (Licensing) clarified that risk assessments would be required to be submitted with any new or variation applications submitted in the future.

Resolved:

1. That the reviewed and revised Statement of Gambling Principles be agreed;
2. That a 4 week consultation period of the review and revised Statement of Gambling Principles be agreed; and
3. That the Senior Specialist Advisor (Licensing), in conjunction with the Chair of the Licensing Committee, be authorised to recommend the reviewed and revised Statement of Gambling Principles to Full Council and that all other Members of the Licensing Committee be informed of that action, unless substantial changes were suggested during the 4 week consultation period.

13 Written questions from councillors

There were none.

14 Date of next meeting

Resolved:

That the next meeting of the Licensing Committee would be called as necessary.

The meeting ended at 4.07pm.

Councillor Sam Adeniji (Chair)

Report Title: Street Trading Review in Lewes District

Report to: Licensing Committee **Date:** 14 February 2019

Lead Councillor: Cllr Isabelle Linington

Ward(s) Affected: All

Report By: Director of Service Delivery

Contact Officer -

Name: Ed Hele
Post Title: Functional Lead Quality Environment
E-mail: ed.hele@lewes-eastbourne.gov.uk
Tel No: 01273 085014

Purpose of Report:

1. To review the street trading consent scheme and authorise the Senior Specialist Advisor to start a six week consultation of the proposed new guidance.

Officer's Recommendations:

1. That the Committee considers the revised draft Street Trading Guidance.
 2. That the Committee agree the contents of the draft guidance and authorise Senior Specialist Advisor to start a 6 week consultation on the revised guidance.
 3. That a further report is presented to the Committee following the results of the consultation with a final guidance document to be agreed.
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1 Information

- 1.1** The Committee previously agreed the street trading consent policy together with an application process and conditions for Lewes District Council in March 2015. Current Policy with Appendices is included as Appendix 1 and 2.
- 1.2** We have committed to reviewing the document when required and at a minimum once every 5 years.
- 1.3** There has been an increase in the use of the Lewes pedestrian precinct by individual stalls and markets which has caused friction with existing business premises. Feedback has been received regarding the use of the precinct including concern about the intensification in the use of the precinct and the appearance of stalls and seating.

2.0 Significant changes proposed to the current Policy

- 2.1** It is proposed that the number of monthly markets and daily pitches in the precincts is limited following concerns of over intensification of the precincts. Setting a limit will assist officers when reviewing an application and deciding whether or not to grant consent.
- 2.2** Markets by their very nature sell a variety of different goods and it is unfeasible to restrict the sale of certain good which may compete with adjacent businesses. It is proposed therefore to remove the 100 meters direct competition restriction for markets. However where there is conflict it is possible to restrict the number of stalls at the market from selling a certain type of produce.
- 2.3** The precincts should be viewed in their entirety and it is therefore appropriate to consider precinct permits for tables and chairs and items such as 'A' Boards at the same time as street trading. Too many of these elements can create a cluttered look and feel on the precinct and diminish the visual amenities of the area. Currently there are 2 premises which benefit from tables and chairs on Lewes Precinct but interest has been received for additional seating in the area. Should this element be included in the final guidance then a fee structure shall be produced based on numbers of chairs and tables.
- 2.4** Currently the Council does not have a standard for stall design and dimensions. Appendix D has been developed to provide guidance on the type of stall that would be acceptable. It is important that any stalls or markets operating with the benefit of consent enhance the visual amenities of an area and should be of a high quality design.
- 2.5** The minimum public liability insurance has increased from One Million Pounds to Two Million Pounds upon the advice of the Insurance Officer.

3.0 Consultation

- 3.1** It is suggested that subject to the Committee's agreement the revised Street Trading Guidance goes out for consultation for a period of not less than 6 weeks.
- 3.2** The results of the consultation shall then be brought back to the Committee to agree the final guidance document.

4.0 Financial Appraisal

- 4.1** The application fee that is charged to each Trader will cover the costs of administration and monitoring the scheme. It is not anticipated that existing fees will need to increase as amended guidance and application processes will be managed within existing resources.
- 4.2** If it is decided to adopt the section on placing tables, chairs and objects (A boards) on the highway fees will be formulated based on cost recovery.

5.0 Legal Implications

5.1 This Report was considered by the Legal Section on 31 January 2019 (IKEN-8034-MW).

6.0 Risk Management Implications

6.1 I have completed a risk assessment. The following risks will arise if the recommendations are not implemented, and I propose to mitigate these risks in the following ways no new risks will arise if the recommendations are implemented.

6.2 Reputation Risk: It is important that the Council is seen to consider the regulation of Street Traders in an open and transparent process. The Council has a duty to protect residents going about their daily activities in the locality and to promote the economic wellbeing of existing businesses in Lewes District. It is paramount that the Council is seen to be addressing the issue in order to retain a good reputation with the public and businesses. Failure to consider the impacts of Street Trading upon the community appropriately may adversely affect the reputation of the Council. The Guidance and associated conditions seek to balance the rights and responsibilities of itinerant as well as permanent Traders with those of residents.

6.3 Health and Safety: Street Traders may create an obstruction to both pedestrian and vehicular traffic. Further, some activities, such as the use of LPG and generators, may present risks to the public. Allowing Street Trading to be unregulated may lead to significant disruption and puts pedestrians and drivers at risk of injury.

7.0 Background Papers

7.1 Previous Committee report dated 12 March 2015.

8.0 Appendices

- Appendix 1 – Current Street Trading Policy
- Appendix 2 – Current Street Trading Appendices
- Appendix 3 – Proposed Lewes Street Trading Guidance 2019.

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Lewes District Council

Street Trading Policy

1st May 2014

1) Introduction

The Council has exercised its powers sensibly to control Street Trading since the Local Government (Miscellaneous) Provisions Act 1982, Schedule 4, enabled it to do so. These powers have predominantly been used to regulate such trading in the Lewes and Newhaven town centres.

However, in view of changes in wider Street Trading practices and concerns about the spread of Street Trading outside these areas, the Council has resolved to extend formal control throughout the whole district. This followed detailed consideration of this by the Council's Licensing Committee and a formal consultation process through late summer of 2013.

The Council has resolved to make all streets in its District "Consent Streets". This means that a person trading without the consent of the Council will be guilty of an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Anyone wishing to trade in the street will need to obtain a "Consent". Any Consent can be made subject to conditions which the Council consider are reasonably necessary.

2) Policy Scope and Purpose

In view of the wide discretion the Council has to control Street Trading, this Policy sets down how its powers will be delivered and the aims and purpose it has in using its powers.

In administering the Street Trading controls the Council aims to:

- a) recognise the importance and contribution of regulated businesses to the wellbeing of the local economy;
- b) enhance the reputation and economic diversity of the area;
- c) balance the rights and needs of the residential and business communities;
- d) protect public safety and promote risk reduction;
- e) protect the permanent business community from unfair and unlawful competition;
- f) protect and, where possible, enhance the amenity and character of the District and local communities within it;
- g) prevent crime and disorder;
- h) promote sustainability and reduce adverse environmental impacts of trading in streets;
- i) promote and protect public health and prevent nuisances;
- j) promote equality and balance everyone's rights;
- k) ensure coherence with Council policies;

- l) ensure coherence with relevant legislation; and
- m) promote fairness, transparency and consistency.

3) Consideration of Applications for Consent and their Administration

In considering applications and subsequently regulating Consents we will work within the following principles:

- a) Nothing in this Policy will undermine the rights of any person to make an application for a Consent and to have that application considered on its merits or, override the right of any person to make objections about such application and any decision resulting from it.
- b) Adherence to the Council's Enforcement Policy and other relevant Council policies.
- c) Observing presumptions against granting a Consent as set out in paragraph 4 below.
- d) Seeking compliance with all relevant legislative requirements.
- e) Ensuring the suitability of applicants, their proposals and their appropriateness to the proposed trading location.
- f) Consultation with interested parties and enabling the consideration of relevant views and concerns as part of our decision making.
- g) Ensuring applicants and anyone that may be affected by an application have reasonable opportunities to influence our decisions.
- h) Making our processes clear and easy to access.
- i) Aiming to be as consistent as we can in delivering our responsibilities for Street Trading control.
- j) Where, during the introduction of this policy, existing trading conflicts with the policy because two similar traders are within 100m of each other, then unless spacing can be adjusted the trader considered to be first on the site, historically, (the primary trader) will be given preference. However, where in such circumstances, the primary trader has failed significantly to prevent crime and disorder the Licensing Committee may consider applications from both traders and determine which trader should be allowed to trade.

4) Presumptions against Granting a Consent

Whilst all applications will be considered on their merits the following factors are likely to be influential in any refusal:

- a) Significant risks to the public in terms of highway safety and obstruction such as interference with sight lines, junctions, accesses, pathways and crossings.
- b) Conflict with traffic orders.
- c) Activity likely to present a crime or public disorder risk.
- d) Activity likely to cause nuisance e.g. noise, light, odour, refuse, and litter or encourage vermin.
- e) Sales, products or activity with an adverse environmental impact.

- f) Sales, products or activity that offend public decency, or that presents a public health risk.
- g) Sales, products or activity that is inappropriate for the location e.g. sale of firearms, sale of animals.
- h) Lack of commercial need.
- i) Applicants with relevant unspent convictions, unpaid debt or previous Street Trading contraventions.
- j) Failure to meet legislative requirements, including risk assessment, relevant to the activity proposed or location, especially with regard to public safety.
- k) Failure to obtain or complete other necessary consents or registrations e.g. planning, licencing, food, waste disposal.
- l) Failure to put in place measures to prevent uncontrolled fire or explosion risk.
- m) Trading on or close to Bonfire Night in the Lewes town area.
- n) Lack of suitable insurance cover to a level of at least one million pounds (£1m).
- o) Direct competition, in terms of goods sold, with fixed businesses or other Street Traders within 100m. Trading close to the boundaries of hospitals or care premises (within 250m) or schools (500m).
- p) Trading within any Council owned car park.
- q) Use of any vehicle, trailer or stall that fails to match or enhance the quality of the street scene.
- r) Any activity or product that compromises child safety or wellbeing.

5) Street Trading Consent does not:

- a) permit trading outside the terms of the Consent;
- b) indicate that planning permission is not required;
- c) indicate that the unit is exempt from business rates;
- d) override parking restrictions or any other traffic regulations; or
- e) imply approval under any other system of control or regulation e.g. planning or licencing.

Any applicant for Street Trading is strongly advised to ensure that all necessary consents/permissions required under the Planning or Licencing Acts are obtained **before** they commence trading.

6) Consultation

In order to assist its decision making with a Consent application the Council may consult with a range of organisations, which may include those listed below or others as appropriate. A period of 28 days will usually be allowed for comments to be received.

- Sussex Police.
- East Sussex Fire and Rescue Service.

- The Highways Authority, Children's Safeguarding Team, Public Health Network and Trading Standards Service at East Sussex County Council.
- Various section of Lewes District Council including Planning, Public Health and Noise Control Team, Commercial Food and Occupational Safety Team, Parking Team, Clean/Green Team, Enterprise and Regeneration Team.
- Relevant Ward Councillor of Lewes District Council.
- Relevant East Sussex County Councillors
- Town and Parish Councils.
- Local business groups or their representatives.
- Immediate neighbours, commercial and domestic (usually by Public Notice in the area).

7) Conditions

General conditions will be attached to every Consent detailing the holder's responsibilities. Additional conditions may also be attached which relate to the type of activity and location for which the Consent is granted.

The conditions may limit such things as: the days and the hours when Street Trading is permitted; the goods which may be sold; the size of the trading pitch; or any other relevant matter.

For the detail of the conditions see the appendices to this Policy.

Persons engaging in Street Trading (as defined in the Act) without a Consent or who fail to comply with the conditions may be liable to enforcement action including: prosecution; revocation; non-renewal of Consent and, in exceptional circumstances, use of its powers to seek an injunction.

Decisions regarding enforcement action will always be made in accordance with the Council's Environmental Health Enforcement Policy.

8) Bonfire Night

Street Trading Consents that are granted will be prohibited from operating on Bonfire Night within the boundaries of the Town of Lewes. A separate application will be required to be submitted to the Council for Street Trading on November 5th or the preceding Saturday if this falls on a Sunday. Applications for trading, which are located on streets in Lewes coloured green on the map in Appendix G of the Consent conditions, are unlikely to receive Consent. Consent on these streets will only be granted in exceptional circumstances and additional conditions to promote public safety will be attached to any Consent granted. Applications on other streets not highlighted in green will be assessed on their individual merits in consultation with the normal agencies.

9) Complaints and Enforcement

Legitimate complaints will be fully investigated in accordance with our procedures. Consent holders are expected to liaise with the Council to resolve complaints about them. Substantiated complaints may result in enforcement action being taken or a Consent being revoked. Such decisions will be made in accordance with the Council's Environmental Health Enforcement Policy.

Complaints may also be taken into account when considering an application to renew a Street Trading Consent.

10) Review of the Policy

This Policy will be reviewed every five years. At the time of the review, we will again consult all interested parties. As well as the five-yearly reviews, we will continue to evaluate the Policy and may update it at any time. Any minor changes can be agreed by the Licensing Committee.

11) Exemptions

The following fall outside of the Council's Street Trading controls, but may require consent or approval from other agencies:

Charitable Stalls in Lewes District Council Precincts Newhaven and Lewes – However, a separate application will be required to trade on the Council's land available from the Licensing Team at the Council.

Pedlars – Pedlars operate under the Pedlars Act 1871 and must obtain a Pedlar's Certificate from the Police. Pedlars are people who sell from place- to-place and cannot sell from a fixed pitch; they must move around and not wait for customers to come to them, they cannot stand in any one place for a considerable time, nor can they exhort those passing, to buy their goods. Pedlars can carry their goods and can use a wheeled trolley to transport them.

Hair braiding, face painting, henna tattoos etc. - The law which governs Street Trading relates to the selling of articles and, as such, people who provide a service e.g. hair braiders, are not considered by the Council to be trading for the purposes of the legislation. However, if quantities of accessories used in hair braiding are also offered for sale then this would be Street Trading and may require a Street Trading Consent.

Persons providing services in the street should take care not to cause any nuisance or obstruction as this could result in the Police or another authority taking action.

Busking – Can be controlled by the Council, in conjunction with the Police if need be. If a busker, or a group of buskers, act in such a way as to cause a nuisance, then they may be asked to cease and leave the area. Buskers using amplified music will not be tolerated.

News vendors/selling periodicals e.g. Big Issue - Selling or offering for sale newspapers or periodicals either with or without a stall does not require any Consent, however if the stall stands on the carriageway of a street, it must be less than 1m in length and width, less than 2m high and occupy less than 0.25m² of ground. Stalls larger than this or in contentious locations may require Consent.

Rounds Man - Selling, offering or exposing for sale things as a rounds man does not require a Consent to trade.

Charity Stalls - Street Trading Consent is not required, but they will require a Street Collection Permit issued by Environmental Health – Licensing.

Markets/Fairs – Street Trading Consent is not required for trading at market or fairs which are established by virtue of a grant, enactment or order.

Other markets or special events e.g. farmers or continental markets or late night Christmas shopping events may require consent. In such cases the Council will issue a single Consent to the organiser which will cover all traders at the event.

Streets Adjoining Premises – Street Trading Consent is not required for premises used as a shop or in a street adjoining premises so used and as part of the business of the shop.

A Trunk Road Picnic Area - provided by the Secretary of State under Section 112 of the Highways Act 1980;

A Petrol Filling Station - trading carried on at premises used as a filling station does not require Consent for Street Trading

Highways Act 1980 the use for trading of an object or structure placed on, in or over the highway and the operation of facilities for recreation or refreshment under part 7A of the Highways Act 1980.

Street Collections the doing of anything authorised by regulations made under section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916

For the purposes of Street Trading activity, all streets are designated as Consent Streets where Street Trading without a Consent is an offence.

12) Appendices to this Policy will include:

Applications and Renewal processes; Fees; General Conditions and specifically conditions relevant to:

- A. General Conditions
- B. Motor Vehicle Conditions
- C. Fixed Site Conditions
- D. Food Related Conditions
- E. Gas Safety Conditions
- F. Bonfire Night Plan
- G. Public Service and Charitable Use of Lewes and Newhaven Precincts Conditions
- H. Use of Petroleum Conditions

Advice and guidance regarding:

- I. Definitions
- J. Guidance on Criminal Offences
- K. Offences

These should be referenced to establish what requirements and costs may be associated with any Consent application. In addition a scale of fees agreed will be applied to the issuing of Consents.



Lewes District Council

Street Trading Guidance and Appendices

1st May 2014

Applications, Renewals and Fees

Application forms and guidance are available at Licensing Office (see below) or can be downloaded from the Council website <http://www.lewes.gov.uk/environment/21784.asp>

Applications can be submitted by post to or delivered by hand to:

Licensing
Environmental Health
Lewes District Council
Southover House
Southover Road
Lewes
BN7 1AB

Alternatively they can be submitted electronically to: licensing@lewes.gov.uk

If you need assistance completing the forms, or need clarification on any aspect of them, contact us using the above addresses or by telephone on 01273 484354 Minicom 01273 484488.

Submitting a New Application

The following will be required to be submitted with the application:

- a. a completed and signed application form;
- b. two forms of identification of the applicant;
- c. two passport sized photographs of the Applicant;
- d. the full application fee which is non-refundable unless circumstances are exceptional. This can be paid by card over the phone (01273 484354) or by cheque payable to "Lewes District Council";
- d. a copy of a certificate of Public Liability Insurance cover for at least £1,000,000 (one million pounds). You must not trade unless you have given us a copy of your insurance certificate. You must also give us evidence proving you have renewed insurance cover if it ends before the Consent does;
- e. if trading is to take place from a fixed site, a map should be submitted showing all streets within a radius of at least 500 metres of the proposed site. This should clearly identify the proposed location by marking the site boundary with a red line; and
- f. a plan which clearly shows the dimensions of the unit i.e. vehicle, trailer, stall, tent etc. and three colour photographs of the trading unit illustrating different elevations of the unit.

The following may be required with the application:

- g. For food businesses, evidence that it is properly registered with the appropriate Council and both applicant and assistants are adequately trained and competent in food safety and hygiene, e.g. it is recommended that food hygiene training is completed to at least Level 2 and that any course of training undertaken is approved by the Chartered Institute of Environmental Health.
- h. Basic Disclosure and Barring Services check (also known as a Criminal Records Check). Not more than one month old unless a previous DBS check has been submitted to the Authority within the last 12 months.
- i. Written permission from land owner to use the site for the purposes of Street Trading.
- j. MOT certificate and, as a minimum, third party insurance documents where a motorised vehicle will be used for Street Trading.
- k. If appropriate, a current Gas Safety Certificate. This is to be kept up to date throughout the period of Consented Trading.
- l. Evidence that appropriate consents, permissions and licenses have been obtained or applied for e.g. Planning, Building Regulation, Licensing Act such as for late night refreshment, sale of alcohol or provision of entertainment.
- m. Such other particulars as the Council may reasonably require.

Renewing an Application

To ensure continuity of an existing Consent, application for renewal should be made **at least 14 days prior to the expiry** of the Consent. **Failure to do this may result in the Consent being cancelled and a new full application having to be made.**

The following will be required to be submitted with a renewal application:

- a) A completed and signed renewal application form.
- b) The appropriate fee in full which is non-refundable unless circumstances are exceptional. This can be paid by card over the phone (01273 484354) or by cheque payable to "Lewes District Council".
- c) New photos of the applicant if appearance has changed.
- d) A copy of a Certificate of Public Liability Insurance cover for at least £1,000,000 (one million pounds).
- e) Such other particulars as the Council may reasonably require.

Mobile Traders and Trading from Multiple Sites

Some applicants may wish to engage in Street Trading from a number of locations across the District rather than from a fixed location.

In such cases applicants must, when submitting the application, clearly identify, as far as reasonably practicable, all of the locations they wish to Trade from.

If an applicant proposes to trade on streets where there is already an existing Street Trading Consent, commercial need will be a relevant consideration.

Sites that Attract Applications from more than One Applicant

Multiple Street Trading Consents may be granted to different applicants for the same site, provided specific trading days/periods are applied for do not clash.

In normal circumstances only one Consent Holder will be permitted to Trade on a site and in its immediate vicinity (i.e. within 100 metres) at any one time.

Special Events/Markets

At such events/markets the Council will consider a single application and issue a single Consent, covering all Traders, to the person organising the event/market, rather than to each individual Trader. The Consent Holder will be responsible for ensuring that conditions are met by all Traders.

Charitable or Public Service Application for Consent to use Lewes or Newhaven Precincts

The Council offers the opportunity for the free use of these areas for the promotion of Public Wellbeing and Charitable giving or involvement in Public or Charitable service. This can include the incidental sales of related goods. This opportunity is subject to conditions applied in line with the Councils Policy on Street Trading.

Occasional or seasonal sale linked to private property or community sites

It is not intended to unnecessarily prevent or restrict the ad hoc and occasional sale of goods such as surplus produce or homemade articles by individual householders or community groups, especially in more rural communities. Whilst such activity will need to be Consented only conditions to prevent nuisance, unfair competition or significant danger will be applied and only if essential.”

Service Standards for Processing your Application

We aim to process your application within seven working weeks from the date it is properly received as complete and it is not contentious.

In this time we will undertake several steps including:

1. Consult with some or all of the following before granting consent:

- Sussex Police
- East Sussex Fire and Rescue Service
- The Highways Authority, Children's Safeguarding Team, Public Health Network and Trading Standards at East Sussex County Council
- Various section of Lewes District Council, including: Planning, Public Health and Noise Control Team, Commercial Food and Occupational Safety Team, Parking Team, Clean/Green Team
- Relevant Ward Councillor of Lewes District Council
- Relevant East Sussex County Councillors
- Relevant Town and Parish Councils
- Local Business Groups or their Representatives
- Immediate Neighbours (usually by Public Notice in the area)

A period of 28 days will be allowed for comments to be received.

NB: It is unlikely that consultation will take place in respect of applications for a site that has an existing Consent (i.e. Renewals) or where a Consent has recently expired, provided that no complaints have been received; the same goods are to be sold; and the application is largely the same as the existing or previous Consent. It is also likely that for new single day applications a trial day will be allowed without full consultation or with a very reduced consultation.

2. The Council's designated Licensing Officer may display a Site Notice at the proposed site for 28 consecutive days for applications of 3 months or longer and if practicable.
3. The Council will maintain a register of applications, including mobile Traders on its website which will be updated regularly.
4. The Council will make its decision as follows:
 - a) The Council's designated Licensing Officer can grant most applications for Street Trading Consents under delegated powers.
 - b) However, where the Licensing Officer believes the application should be refused or the application is very contentious e.g. because of objections, the Licensing Committee will be asked to make the decision. In addition, within the 28 day consultation period, local Ward Councillors have the option to request that the Licensing Committee consider any application about which there are serious concerns even if the Licensing Officer is minded to issue a Consent.
5. Where the application is to go before the Licensing Committee:

- a) The Applicant is expected to attend and will be advised in writing of the date, time and place when the application will be heard.
- b) The Applicant can be represented by a solicitor or supported by a colleague.
- c) The Applicant will be given the opportunity to make representations to Committee both in writing and in person.
- d) Written representations will need to be received by a set date to ensure there is proper time to arrange and inform Committee members. **This will usually be at least seven working days before the Committee meeting.**
- e) The Council's designated Licensing Officer will prepare a report for the Committee regarding the application. The report will be made available to the Applicant at least five working days before the date of the meeting.
- f) When considering the application the Committee will ensure that all persons receive a fair Hearing and a formal process will be followed to ensure this occurs.
- g) The application will be decided upon at the end of the Hearing and reasons for any decision will be provided in writing following the Committee meeting.
- h) There is no Appeal available against the Committee decision.

Duration of Consents and Fees

Street Trading Consents will initially be issued for one of the following periods:

- a) Daily
- b) Weekly
- c) Monthly
- d) 3 Monthly
- e) 6 Monthly
- f) Yearly

Consents are not transferrable to other individuals.

Consent holders not able to make use of their Consent on the appointed day(s) can request that the Consent is carried forward to a date to be agreed with the Council. Such requests are likely to be agreed if conditions such as poor weather or serious family illness or bereavement are established.

All fees must be paid in full in advance unless an alternative arrangement has been agreed with the Council. The Council's fees and charges can be found using the following link <http://www.lewes.gov.uk/environment/21784.asp>

Applicants will be advised of the appropriate fee which may vary according to the type and regularity of trading.

Failure to pay fees may result in any Consent being revoked or, in the case of renewal, the Applicant not being permitted to engage in Street Trading once the previous Consent has expired. Non-payment of renewal fees may also result in any subsequent application being treated as a new application.

Consent fees are set by the Licensing Committee.

Appendix A – General Conditions that will normally be attached to Street Trading Consents

General conditions will be attached to all Consents detailing the Consent Holder's responsibilities.

The general conditions may include provisions to ensure:

- maintaining public safety;
- preventing nuisance;
- generally preserving the amenity of the locality;
- limitations on the days and the hours when Street Trading is permitted;
- the goods which may be sold;
- the size of the trading pitch; or
- any other relevant matter.

Additionally, conditions may be attached which relate specifically to the type of Consent granted. These conditions may include special controls or be drawn from relevant sections of the following Appendices:

- a) General Conditions
- b) Motor Vehicle Conditions
- c) Fixed Site Conditions
- d) Food Related Conditions
- e) Gas Safety Conditions
- f) Bonfire Night Plan
- g) Public Service and Charitable Use of Lewes and Newhaven Precinct Conditions
- h) Use of Petroleum Conditions

In addition the following Appendices provide guidance to be used in considering applications and Consent implementation:

- i) Definitions
- j) Guidance on Criminal Offences
- k) Offences

Failure to comply with conditions may lead to prosecution, revocation or non-renewal of Consent.

Persons engaging in Street Trading without a Consent may be liable to prosecution.

Decisions regarding enforcement action will be made in accordance with the Council's Enforcement Policy.

THE GENERAL CONDITIONS

The Consent Holder shall:

1. only Trade on the days and between the times stated on the Consent. Trading will not generally be permitted between 23:00 and 07:00 hrs or on Christmas Day, Easter Sunday or on Bonfire Night;
2. only Trade in the position, and way described or Trade in the articles stated on the Consent;
3. not begin setting up more than 30 minutes before any trading start time in the Consent;
4. at the end of any trading day, remove from the highway all goods, receptacles, structures and any other objects associated with trading no later than 30 minutes after the time shown on any Consent;
5. ensure that disabled people and wheelchair users can be adequately served. This may involve serving persons from outside the vehicle;
6. ensure that all goods, receptacles, structures and any other objects associated with trading are easily and immediately removable in the event of emergency access being required;
7. when carrying on business relating to a Street Trading Consent, be sober, conduct him/herself, and ensure persons under his/her control conduct themselves, in a proper, civil and courteous manner and not use behaviour or language which could reasonably be seen as abusive, harassing or intimidating;
8. at all times conduct business and position all goods, receptacles, structures and any objects associated with trading, or used in connection with his/her business, in such a manner to prevent danger to persons trading or likely to be affected by trading;
9. ensure all risks in connection with the trading activity are assessed and reviewed periodically. Ensure any identified risk reduction measures are put in place. Risk assessments to be made available to an Authorised Officer of the Council for inspection.
10. at all times conduct his/her business in a clean and tidy manner;
11. make a copy of the Consent immediately available, upon request, to an authorised Officer of the Council or the Police;
12. if appropriate, ensure a current Gas Safety Certificate is valid for the trading activities throughout the period of trading. A copy of this Certificate is to be provided to the Council;
12. wear, and ensure any assistants wear, any identification badges issued by the Council at all times of trading;
13. allow access to, and comply immediately with, all reasonable directions given by the Council, its authorised Officers or Police Officers regarding any Street Trading.

Ensure a responsible person always is in attendance and available to receive such directions;

14. report any change that occurs in the particulars and information contained in the application for the Consent, such as a change of address, to the Licensing Authority within 72 hours of it occurring;
15. indemnify the Council against all claims, liabilities, actions, demands and expenses whatsoever in respect of, or in any way arising out of any Consent to Trade granted by the Council and shall, without prejudice to the foregoing, maintain in force at all times with a reputable insurance company approved by the Council a valid Public Liability Insurance Policy to a minimum value of £1,000,000 (one million pounds) and shall provide, on request, and to the satisfaction of the Council, the insurance certificate and evidence of full premium payment. If the Consent to Trade is terminated by the Council for any reason the Council shall accept no liability for financial or other loss of the Consent Holder;
16. ensure that they comply with the requirements of the Council's guidance document on the safe use, handling, storage and transportation of Liquefied Petroleum Gas (LPG) used in mobile catering units or similar units, see Appendix B and E;
18. ensure all stalls and vehicles are provided with adequate and appropriate fire extinguishers, which shall be regularly serviced and certified accordingly. 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. Where hot fat/oil cooking facilities are provided a fire blanket should be provided and so positioned as to allow the blanket to be withdrawn easily and quickly; and
19. ensure cooking and heating appliances are positioned well clear of tent, walls and roofs. Where bottled gas is to be used the Appendix B and E of the conditions for LPG should be followed as appropriate. Cylinders should stand outside any tent, or similar structure, and should be handled and changed only by persons fully conversant with the supplier's instructions. Precautions should be taken to prevent tampering with cylinders or valves, and to prevent cylinders (and associated pipework) being damaged or falling.

The Consent Holder shall not:

1. under any circumstances, Trade within the areas defined green on the map in Appendix F **or, without specific Consent**, within the boundaries of the Lewes Town on Bonfire Night - November 5th or the preceding Saturday if November 5th falls on a Sunday;
2. cause obstruction or danger to people using the street. In particular, not block access for disabled people, disabled parking or force disabled people to use inappropriately surfaced areas.
3. place, store, sell, expose or offer for sale any article outside any specified trading area;
4. sell, expose or offer for sale goods similar to and in direct competition with fixed businesses or other Consented Traders within 100 metres without prior consent;

5. trade close to the boundaries of hospitals or care premises (within 250 metres) or schools (500 metres);
6. permit any person to assist in trading unless the details of that person have been supplied to in writing and approved by the Council;
7. sell, display or wear merchandise or items which are likely to cause offence or distress to any other person or which would be deemed an offence under any other legislation. The Licensing Officer should be consulted if doubt exists on whether article/material could be considered offensive, his/her decision is final;
8. place or display advertisements or other notices in the immediate area of the trading site without the approval of the Council;
9. place any furniture or equipment in the immediate area of the premises other than as permitted by the Consent;
10. transfer any Consent or dispose of any Consent to any other person;
11. cause any nuisance or annoyance to persons using the street or to the occupants of any properties in the vicinity. No amplification equipment shall be used unless authorised by the Council;
12. leave rubbish or other waste arising from trading activity, or allow it to be left or accumulate, on or around any Consent site. Removal and disposal of rubbish must be to the satisfaction of the Council - this may require a special collection to be arranged and relevant details to be provided;
13. use any device for the generation of electricity, light or heat without the Council's permission.
14. use oil burning appliances for lighting, heating or cooking. No naked flames, including candles, should be used;
15. sell or display articles such as firearms, replica firearms, knives, tobacco or fireworks;
16. bring pets or other animals to the trading site without written permission from the Council;
17. sell or offer goods for sale as 'seconds', soiled or damaged, unless a clear notice is displayed stating this; or
18. make any excavations or indentations of any description whatsoever in the surface of the highway or fix any equipment of any description on or in the street surfaces.

The Council reserves the right, if it considers it to be reasonably necessary, to alter or amend these conditions at any time.

Any Consent is issued without prejudice to any other statute, bye-law or regulation. A Consent does NOT override any regulations regarding planning, parking, food hygiene, obstruction, noise nuisance etc.

APPENDIX B - Motor Vehicle Conditions

1. Any vehicles and trailers used for the purposes of Street Trading shall be removed from the highway when the Consent is not in operation.
2. Any motor vehicle used for the purpose of Street Trading shall at all times be in a roadworthy condition and have the relevant and up to date documents i.e. insurance, tax and MOT to make the use of that vehicle on a road legal. These documents will be produced by the Consent Holder to any Police Officer or authorised Officer of the Council.
3. Where the Trader trades from a stationary vehicle, that vehicle shall, in all respects, comply with the Road Vehicles (Construction and Use) Regulations 1986. Motor vehicles shall be capable of their own propulsion and shall not be towed into trading positions.
4. All vehicles shall be provided with adequate and appropriate fire extinguishers which shall be regularly serviced and certified accordingly.
5. The Trader must not park or site their vehicle within 500 metres of any school; 250 metres of any hospital or care premises or within 20 metres of any road junction.
6. The Trader must not trade from a point within 100 metres of an existing Trader of a similar nature without the consent of the Council.
7. The Trader shall comply with Appendix D and E relating to use of LPG and sale of food as appropriate.
8. The Trader shall retain with his vehicle or stall or other mode used for trading, any water used or waste produced until the end of each period of trading on each day of such trading and then remove it or dispose of it appropriately elsewhere and, in particular, shall not deposit any such waste near or into any street, drain or channel.
9. The Trader's vehicle must not obstruct the free flow of pedestrians or traffic at any time.
10. The Trader must not park, or site their vehicle, on a classified road or prohibited area at any time.
11. The Trader must comply with all reasonable instructions given by Officers from the Council, Police and/or Highways Authority regarding the initial location and relocation of sites and other such related matters. If a Consent Holder or operator/assistant is requested to move the vehicle/stall by an authorised Council Officer or Police Officer they shall immediately comply with that request.
12. The appearance of vehicles must not be detrimental to the existing properties in the area in which the vehicle is stationed.
13. All goods shall be displayed on the vehicle and no freestanding racks or displays are permitted.

The following conditions apply to ice cream vans and any other vehicle from which food will be sold using a chime or loudspeaker:

1. The chime or loudspeaker should only be operated between 12:00 and 19:00 hrs.
2. The chime or loudspeaker is fixed to a vehicle used for the conveyance or sale of perishable food.
3. The chime or loudspeaker is used solely for informing members of the public that goods are for sale.
4. The chime or loudspeaker is not operated in a way as to give rise to unreasonable annoyance to persons in the vicinity.
5. The volume of the chime, or music, must be carefully adjusted so as to avoid distortion of the sound.
6. The noise level from a chime or loudspeaker should not exceed LAmax 80 dB (at 7.5 metres) in any direction. This may need to be reduced in narrow streets.
7. The chime or loudspeaker must not last more than twelve seconds and not be used more frequently than once every two minutes or more than once when the vehicle is stationary at a selling point.
8. The chime or loudspeaker should not be played more often than once every two hours in any one length of street i.e. within 500 metres.
9. The chime or loudspeaker should not be played when in sight of another van (whether moving or stationary) which might reasonably be taken to be in the street for trading purposes.
10. Chimes and loudspeakers should only be played as often as is necessary to let customers know the commodity is for sale from the vehicle.
11. The chime or loudspeaker should not be played within 50 metres of any hospital (or similar institution), of a school during school hours or of a place of worship on a recognised day of worship.
12. At all times the provisions of any relevant Code of Practice on the use of chimes or loudspeaker shall be observed.

APPENDIX C – Fixed Site Conditions

1. The Consent Holder shall ensure that sufficient sanitary accommodation is available for both the Consent Holder and assistants when operating at a static site.

APPENDIX D – Food Related Conditions

1. The Consent Holder, if intending to sell food from a stationary vehicle/stall shall operate from a purpose made vehicle/stall constructed and managed so as to comply with the relevant hygiene regulations currently in force and any subsequent changes to those regulations. There must be an up to date registration of the food business with the Council.
2. All hot food vans/trailers are required to comply with current legislation on fire safety, see Appendix E. Where gas cylinders are used an annual Gas Safety Certificate shall be required to ensure the safety of all gas cooking and heating equipment. A fire blanket and a foam fire extinguisher shall be provided in all vehicles selling hot food.
3. All hot food vans/trailers are required to carry a basic first aid kit.
4. The Consent Holder shall ensure that litter checks are carried out regularly in the vicinity of the trading area and litter attributed to the activity is collected and disposed of to the satisfaction of the Council.
5. A Consent Holder selling food shall at all times comply with any Food Hygiene Regulations in force at that time, and when required by the Council or its Officers, shall produce appropriate Food Hygiene Training Certificates for relevant food handlers.
6. The Consent Holder shall provide and maintain at his own expense adequate refuse receptacles for litter.
7. Odour from any flue used for the dispersal of cooking smells serving the site shall not cause nuisance to the occupants of any properties in the vicinity.

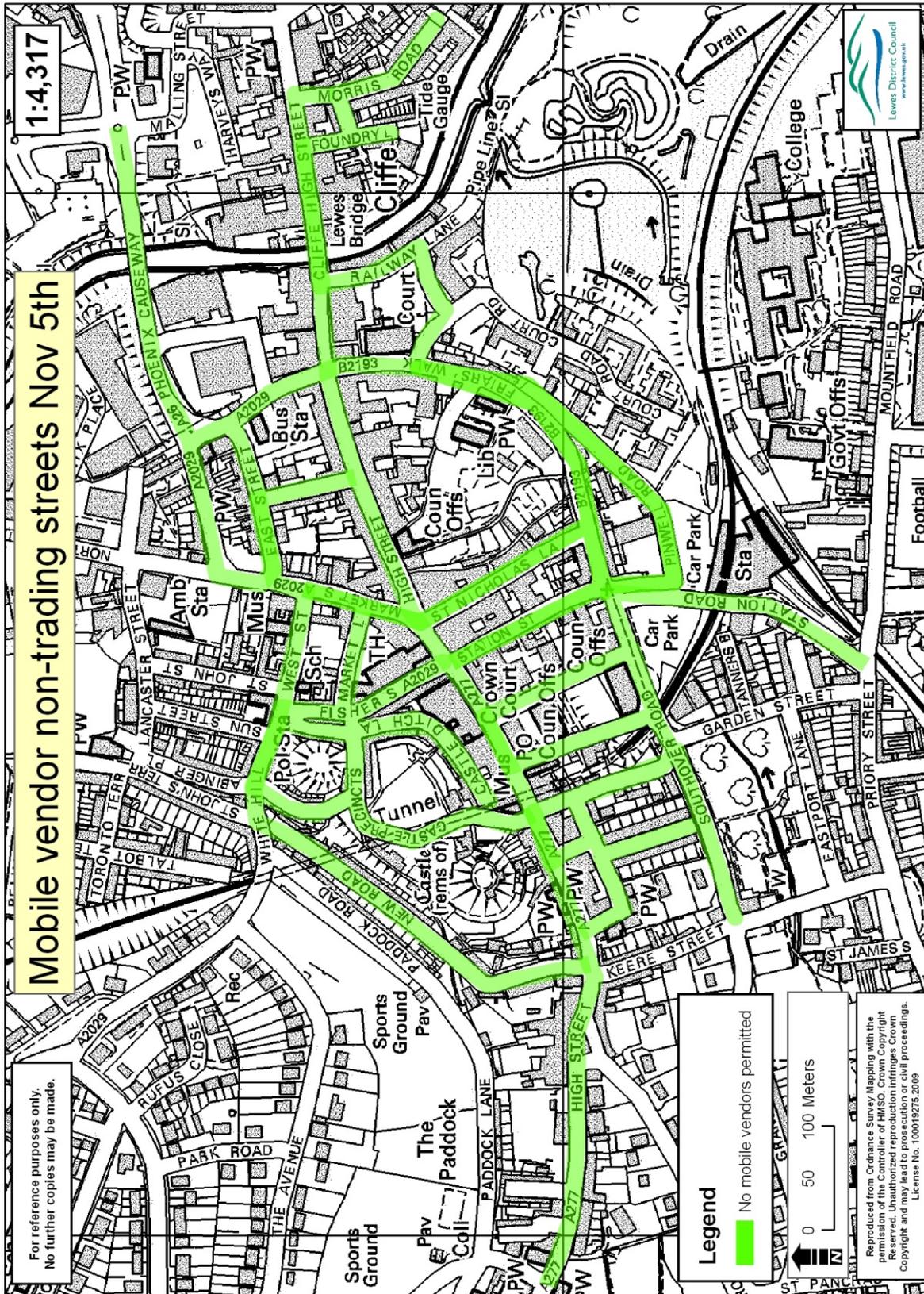
It is recommended that any flues for the dispersal of cooking smells shall either:

- i. terminate at least 1 metre above the ridge height of any building in the vicinity, with no obstruction of upward movement of air; or
 - ii. have a method of odour control such as activated carbon filters, electrostatic precipitation or inline oxidation.
8. The Food Hygiene Rating Scheme score must be visibly displayed at all times when trading. Traders are expected to achieve a score of at least “3”.

APPENDIX E - Gas Safety Related Conditions

1. Gas appliances, including pipework, should be installed and regularly serviced and maintained by a competent person (Gas Safe registered for LPG). A current Gas Safety Certificate to be submitted with each application and to be maintained throughout the period of trading.
2. Cylinders should be fitted with automatic cut-off valves and be protected from tampering.
3. Cylinders must be stored upright so that they cannot fall and be positioned away from heat and ignition sources.
4. Gas storage compartments in trailers or stalls must have complete half an hour fire protection. Access to the compartment must be from the outside of the unit and there should be adequate ventilation at high and low levels.
5. The cylinder must be secured in an upright position and be securely fastened during transit.
6. All gas pipes and fittings should be to the correct British Standard for LPG and kept as short as possible with appropriate crimp or compression fittings (not slip-on fittings).
7. All gas pipes should be protected from abrasion or mechanical damage (armoured if subject to temperatures over 50° C)
8. Flexible gas piping must be checked regularly and replaced if damaged or worn.
9. All gas appliances must be fitted with a flame failure device and be adequately ventilated.
10. All fryers should be fitted with an automatic high temperature-limiting device (operates at a fat temperature of 250° C or lower).
11. Suitable warning signs indicating: '**Caution – LPG**'; and '**Highly Flammable**' and should be clearly displayed.
12. People who change the cylinders should be properly trained and a safety notice on how to connect and disconnect the LPG bottles should be displayed in the gas compartment.
13. Cylinder valves and gas appliances must be turned off when not in use.

APPENDIX F - Bonfire Night Non-Trading areas



APPENDIX G - Conditions for Public Service or Charitable activity in Lewes and Newhaven Precincts

In addition to the General Conditions the use of the precincts is subject to the following:

1. As a general rule stalls, units, vehicles or displays should be positioned in the widest parts of precincts and obstruction reduced as far as possible.
2. All vehicles, unless an agreed part of the activity/event and in the agreed position, must be removed from the precinct.
3. The granite paving area of the Lewes precinct is able to be used only by activities, units, displays, stalls or vehicles that can be cleared immediately in the event of need for emergency access.
4. The “blue brick” area of Newhaven High Street shall be kept clear and not be used without express consent of the Council.
5. Public rights of way must be maintained as far as reasonably practicable.
6. Emergency access routes to be maintained clear to the satisfaction of the Council or Emergency Services.
7. Amplification is not permitted unless with prior permission from the Council

APPENDIX H - Use of Petroleum

- 1) Any Trader using any petroleum fueled device must complete a documented Risk Assessment, submit the Risk Assessment with their application, and must keep the Risk Assessment at the site where trading is taking place. The Assessment must be available to an authorised Officer of the Council or the East Sussex Fire and Rescue Service on demand.

The Risk Assessment must address at least the following matters:

- A) the position and siting of the device;
 - B) the storage container for fuel for the device;
 - C) the labelling of the fuel container;
 - D) the number, type and maintenance of fire extinguishers at the site;
 - E) the provision of fire blankets; and/or
 - F) the prevention of hazard, nuisance from fumes or noise.
- 2) For guidance please be aware of and implement the following, as applicable:
 - Fuel must be stored away from the stall in a container of a type approved under the Petroleum Spirit (Motor Vehicles) Regulations 1929 or Petroleum Spirit (Plastic Containers) Regulations 1982.

- All petroleum spirit, or other highly inflammable liquid used in connection with the device, must be stored in a metal container with a secure leak-proof cap not exceeding 10 litres or a plastic container not exceeding 5 litres capacity.
- The container to be labelled “Petroleum Spirit Highly Inflammable”.
- The container shall be stored securely and remote from sources of ignition.
- 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. Where hot fat/oil cooking facilities are provided a fire blanket should be provided and so positioned as to allow the blanket to be withdrawn easily and quickly.
- Use of the device should not cause hazard, fume or odour nuisance.

APPENDIX I - Definitions

“**Advertisement**” - means any word, letter, model, sign, placard, board, notice, whether illuminated or not, the nature of, and employed wholly or partly for the purposes of: advertisement, announcement or direction and includes hoarding or similar structure or any balloon used, or adapted for use for the display of advertisements, and references to the display of advertisement shall be constructed accordingly.

“**Awning**” - means a sheet of canvas or other material, used as a protection against the weather, which projects as an extension of the roof beyond the structure of the stall.

“**Assistant**” - means a person employed by and acting under the directions of a Trader to assist him/her about the business of the stall and whose name and address has been notified to the Council.

“**Bonfire Night**” - November 5th or the preceding Saturday if this falls on a Sunday.

“**Consent Holder**” - the person granted a Consent by the Council to undertake Street Trading.

“**Consented Street Trading Pitch**” - means a pitch in any street authorised as a place at which Street Trading may be engaged in by a Street Trader, and includes any temporary alternative place approved by the Council or a duly authorised Officer of the Council.

“**The Council**” - means the Lewes District Council and usually its Environmental Health Service.

“**Goods**” - means any goods, wares or merchandise for sale at a stall.

“**Pitch Limits**” - means the authorised ground markings defining the area within which a Street Trading stall is to be contained.

“**Premises**” - means any shop, house or block of flats behind or adjacent to the licensed pitch.

“**Refuse**” - includes any waste material.

“Stall” - means any structure used by a Trader for the display of goods, or in connection with his or her business and which occupies a licensed Street Trading pitch; and includes all goods offered or to be offered for sale and any additional structure or equipment used as part of the stall or business. This also included all rubbish or refuse created as a result of the business.

“Street” - any part of a street and includes any road, footway, beach or other area to which the public have access without payment.

“Street Trading” – means the selling or exposing or the offering for sale of any article (including a living thing) or the supplying or offering to supply any service in a street for gain or reward.

“Street Trading Consent” – means a Consent granted under the Act and valid for not more than three years. Please Note: The use of a street as a smoking area outside premises is not considered to be Street Trading. The Council will not therefore usually consider requests for Consent where the use is solely for these purposes.

“Trader” - means a person in whose name a current Consent is held authorising Street Trading.

‘Temporary Consent’ – means a Consent granted under the Act valid for a single day or for a period not exceeding 6 months.

“Vehicle” – includes any trailer, stall, barrow, cart etc., used in connection with trading.

Any other term not defined in these conditions shall have the same meaning as in the Local Government (Miscellaneous Provisions) Act 1982.

APPENDIX J - Guidance on Criminal Convictions and Street Trading

Each case will be decided on its own merits however, the Council may refuse to grant or renew a Street Trading Consent on any of the following grounds:

- (i) there has been a conviction/caution for an offence involving dishonesty, indecency, certain sexual offences, violence or drugs;
- (ii) there has been a conviction/caution for an offence under the relevant licensing legislation; or
- (iii) any other reasonable grounds.

If a period of imprisonment, community sentence or Court Order is imposed, the applicant must show a minimum of 3 years without further convictions from the end of imprisonment or sentence, not the reduced sentence.

A person with a current unspent conviction for serious crime need not be permanently barred from obtaining a Consent, 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.

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, 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, i.e. within the last 5 years, 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 application.

APPENDIX K - Offences

The Local Government (Miscellaneous Provisions) Act 1982 provides as follows:

a) Schedule 4, paragraph 10

(1) A person who:

- (a) engages in street trading in a prohibited street; or
- (b) engages in street trading in a licence street or a consent street without being authorised to do so under this Schedule; or
- (c) contravenes any of the principal terms of a street trading licence; or
- (d) being authorised by a street trading consent to trade in a consent street, trades in that street—
 - (i) from a stationary van, cart, barrow or other vehicle; or

(ii) from a portable stall,

without first having been granted permission to do so under paragraph 7(8) above;
or

(e) contravenes a condition imposed under paragraph 7(9) above, shall be guilty of an offence.

(2) It shall be a defence for a person charged with an offence under sub-paragraph (1) above to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

(3) Any person who, in connection with an application for a street trading licence or for a street trading consent, makes a false statement which he knows to be false in any material respect, or which he does not believe to be true, shall be guilty of an offence.

(4) A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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Lewes District Council

Street Trading Guidance

**Including Tables and Chairs Permits on
Pedestrian Precincts**

2019

Lewes District Council Street Trading Guidance

1) Introduction

The Council has exercised its powers to control Street Trading since the Local Government (Miscellaneous) Provisions Act 1982, Schedule 4, enabled it to do so. These powers have been used to regulate such trading in Lewes, Newhaven and Seaford town centres along with the A26 and A27 main trunk roads. The Council has resolved to make the following streets as “Consent Streets” in its District

Lewes Town:- Cliffe Bridge, Lewes Pedestrian Precinct, High Street up to junction with Rotten Row, Cliffe High Street, School Hill, Lansdown Place, Eastgate Street, Friars Walk

Newhaven Town: - Newhaven Pedestrian Precinct in Newhaven Town

Seaford Town:- Station Approach, Clinton Place, Sutton Road, Broad Street, Church Street, Church Lane, High Street, Place Lane, South Street, Saxon Lane, Marine Parade, The Esplanade, and all streets 50 metres inland from Marine parade and the Esplanade.

A26 and A27 Trunk Roads.

Anyone wishing to trade in controlled streets will need to obtain “Consent”. Any Consent can be made subject to conditions which the Council consider are reasonably necessary. This means that a person trading without the consent of the Council will be guilty of an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale.

2) Guidance Scope and Purpose

In view of the wide discretion the Council has to control Street Trading, this Guidance sets down how its powers will be delivered and the aims and purpose it has in using its powers.

In administering the Street Trading controls the Council aims to:

- a) recognise the importance and contribution of regulated businesses to the wellbeing of the local economy;
- b) enhance the reputation and economic diversity of the area;
- c) balance the rights and needs of the residential and business communities;
- d) protect public safety and promote risk reduction;
- e) protect the permanent business community from unfair and unlawful competition;
- f) protect and, where possible, enhance the amenity and character of the District and local communities within it;
- g) prevent crime and disorder;
- h) promote sustainability and reduce adverse environmental impacts of trading in streets;

- i) promote and protect public health and prevent nuisances;
- j) promote equality and balance everyone's rights;
- k) ensure coherence with Council policies;
- l) ensure coherence with relevant legislation; and
- m) promote fairness, transparency and consistency.

A maximum of 4 individual pitches will be granted on any one day and there shall be a maximum of 3 markets per calendar month in a pedestrian precinct.

3) Consideration of Applications for Consent and their Administration

In considering applications and subsequently regulating Consents we will work within the following principles:

- a) Nothing in this Guidance will undermine the rights of any person to make an application for a Consent and to have that application considered on its merits or, override the right of any person to make objections about such application and any decision resulting from it.
- b) Adherence to the Council's Enforcement Guidance and other relevant Council policies.
- c) Observing presumptions against granting Consent as set out in paragraph 4 below.
- d) Seeking compliance with all relevant legislative requirements.
- e) Ensuring the suitability of applicants, their proposals and their appropriateness to the proposed trading location.
- f) Consultation with interested parties and enabling the consideration of relevant views and concerns as part of our decision making.
- g) Ensuring applicants and anyone that may be affected by an application have reasonable opportunities influence our decisions.
- h) Making our processes clear and easy to access.
- i) Aiming to be as consistent as we can in delivering our responsibilities for Street Trading control.

4) Presumptions against Granting Consent

Whilst all applications will be considered on their merits the following factors are likely to be influential in any refusal:

- a) Significant risks to the public in terms of highway safety and obstruction such as interference with sight lines, junctions, accesses, pathways and crossings.
- b) Conflict with traffic orders.
- c) Activity likely to present a crime or public disorder risk.
- d) Activity likely to cause nuisance e.g. noise, light, odour, refuse, and litter or encourage vermin.
- e) Sales, products or activity with an adverse environmental impact.
- f) Sales, products or activity that offend public decency, or that presents a public health risk.
- g) Sales, products or activity that is inappropriate for the location e.g. sale of firearms, sale of animals.
- h) Lack of commercial need.

- i) Applicants with relevant unspent convictions, unpaid debt or previous Street Trading contraventions.
- j) Failure to meet legislative requirements, including risk assessment, relevant to the activity proposed or location, especially with regard to public safety.
- k) Failure to obtain or complete other necessary consents or registrations e.g. planning, licencing, food, waste disposal.
- l) Failure to put in place measures to prevent uncontrolled fire or explosion risk.
- m) Trading on or close to Bonfire Night in the Lewes town area.
- n) Lack of suitable insurance cover to a level of at least two million pounds (£2m).
- o) Direct competition, in terms of goods sold, with fixed businesses or other Street Traders within 100m unless a market operator with a variety of goods.
- p) Trading close to the boundaries of hospitals or care premises (within 250m) or schools (500m).
- q) Trading within any Council owned car park.
- r) Use of any vehicle, trailer or stall that fails to match or enhance the quality of the street scene.
- s) Any activity or product that compromises child safety or wellbeing.

5) Street Trading Consent does not:

- a) permit trading outside the terms of the Consent;
- b) indicate that planning permission is not required;
- c) indicate that the unit is exempt from business rates;
- d) override parking restrictions or any other traffic regulations; or
- e) imply approval under any other system of control or regulation e.g. planning or licencing.

6) Deemed Consent

The following activities are deemed to already have consent and therefore an application is not required to be submitted.

- a. Local Authority land including Town and Parish Council's that is used for car boot fairs and Charitable, local authority organised and community type events (where an admission charge is not made for entry) (i.e. outdoor school fayres, carnivals, fund raisers, car boot sales)
- b. Individual householders
- c. community group sales without profit (such as churches, village halls etc.)

7) Precinct Permits

The street trading provisions of the Local Government (Miscellaneous Provisions) Act 1982 are effective for regulating the activities of itinerant traders and Farmers' Markets. They do not apply to shops/cafes that extend their business out onto the precincts, advertising boards or (for example) political parties, which are campaigning from a stall.

These activities can only be controlled by Section 115 (A-K) of the Highways Act 1980. Lewes District Council supports and encourages the provision of street

cafés in town centres within the district, as they make a positive contribution by adding vitality, colour, life and interest to the street scene. They can help maximise the use of public spaces, aid the local economy and add to the facilities offered to people who visit, live and work in the district.

Street Cafes

Street Cafes requiring the placing of table and chairs for the purpose of serving refreshments outside businesses already having a premises in the Lewes or Newhaven precincts will require a permit.

This guidance is intended to help businesses understand where street cafes might be encouraged and whilst the provision of street cafes is encouraged, it is important that they are properly administered and managed to ensure that they meet the legal requirements and the high standards expected by the Council.

Advertising Boards

Advertising boards placed immediately outside the frontage of the business are acceptable but any 'A' boards on a precinct not immediately outside the business will require a permit.

Street Collections

A street collection is permissible on a Farmers' Market Day - first and third Saturday each month. However, no additional permissions will be granted for use of Lewes pedestrian precinct on this day with the exception of tables and chairs permission.

On receipt of a satisfactory application the required date will be allocated, subject to availability, and a permit issued with a copy of the original application. All conditions of use must be adhered to along with any additional conditions that may be applied to a specific use on the permit.

All vehicles associated with the street collection are banned from the precinct with the exception of emergency services, security deliveries and repairs to underground services and/or in connection with Lewes Bonfire Processions.

General Criteria

Anyone wishing to apply for a Precinct Permit should read this guidance and detailed conditions to check that their proposal meets all the criteria.

Although each application will be considered on its own merits this guidance contains key points that must be considered in every case.

- a) The area for which a precinct permit is sought must be highway as defined by S115A Highways Act 1980, namely a pedestrian planning order is in force which is the case for Newhaven and Lewes pedestrian precincts;

- b) Before considering a precinct permit Lewes District Council must carry out consultations and publish a Notice in accordance with the Highway Act 1980. The Council must take into consideration all representations made to them when considering an application for a precinct permit. Consent shall be obtained from the premises that have interest in the frontage by the applicant.
- c) The Council will not permit any objects to be placed on the highway, which will cause a hazard or an obstruction to the free flow of pedestrians, prevent the normal access to premises adjoining the highway, access by emergency or service vehicles or to prevent statutory undertakers and operators of electronic communications code network having access to any apparatus in, on or over the highway.
- d) Precinct Permits will only be issued to cafes, restaurants, public houses or other catering establishments that serve food and drink within the premises and employ sufficient staff to provide table service to the outside area and have sufficient provision of sanitary conveniences for use by the public.
- e) In considering such applications the Council will give particular consideration to Section 17 of the Crime and Disorder Act 1998 therefore prior to granting any consent for tables and chairs within the highway, the Council will pay particular regard to any potential for crime or disorder arising either directly or indirectly from the consent and will give significant weight to the views of the local police.
- f) To protect the attractiveness of the streets, the council will require:-
- The appearance of the tables and chairs must ideally enhance, or at least not be detrimental to the street scene.
 - The tables and chairs and their associated activity must not cause environmental problems or detract from the amenities of adjacent retailers/occupiers. For example, there must be no litter problem, smells from food sales, or noise, so as to cause nuisance or annoyance.
- g) The Council will ensure that the layout of the furniture will provide adequate access and circulation space for all customers including wheelchair users and those with push chairs, buggies, and members of the public with mobility issues etc.
- h) The Council will generally apply hours of operation between 9am to 6pm from Monday to Sunday for all permits. The Council in approving such applications will have regard to an applicant's previous track record of compliance with the conditions attached to any previous permit or compliance with other associated conditions controlling their trade.
- i) The Council will require that all glasses, crockery and other ancillary items used in the permitted area, are made of a toughened material. All glass-bottled drinks, including alcoholic drinks must be served in toughened drinking glasses. Glass bottles are not allowed in the permitted area.

- j) The Council will not permit music to be broadcast on to the permitted area.
- k) The Council will not accept an application unless the following have been provided:
 - A completed application form
 - Correct fee
 - Plans (Pitch Layout and photos)
 - Evidence of public liability insurance
- l) The Council's standard conditions will be applied to all "Precinct Permits". In addition to the standard conditions the Council may also impose special conditions on individual precinct permits.
- m) Tables and chairs placed on the precinct without permission are an obstruction of the Highway. Any person who has placed tables and chairs on the precinct without a valid precinct permit issued by Lewes District Council will be referred to the Highway Authority for enforcement action.
- n) Permits will be granted for areas up to a distance of 2 metres immediately outside the frontage to their premises.

8) Consultation

In order to assist its decision making with Street Trading Consent applications the Council will consult with stakeholders in relation to new applications to trade for more than three months, which may include those listed below or others as appropriate. A period of 28 days will usually be allowed for comments to be received from;

- Sussex Police.
- East Sussex Fire and Rescue Service.
- The Highways Authority, Children's Safeguarding Team, Public Health Network and Trading Standards Service at East Sussex County Council.
- Various sections of Lewes District Council including Planning, Public Health and Noise Control Team, Commercial Food and Occupational Safety Team, Parking Team, Neighbourhood First, Enterprise and Regeneration Team.
- Relevant Ward Councillor of Lewes District Council.
- Relevant East Sussex County Councillors
- Town and Parish Councils.
- Local business groups or their representatives.
- Immediate neighbours, commercial and domestic (usually by Public Notice in the area).

9) Conditions

General conditions will be attached to every Consent detailing the holder's responsibilities. Additional conditions may also be attached which relate to the type of activity and location for which the Consent is granted.

The conditions may limit such things as: the days and the hours when Street Trading is permitted; the goods which may be sold; the size of the trading pitch; or any other relevant matter.

Where consent is granted for the pedestrian precinct in either Newhaven or Lewes it may be necessary for a limited number of occasions to suspend street trading for community events or for operational and safety reasons.

For the detail of the conditions see the appendices to this guidance. Persons engaging in Street Trading (as defined in the Act) without a Consent or who fail to comply with the conditions may be liable to enforcement action including: prosecution; revocation; non-renewal of Consent and, in exceptional circumstances, use of its powers to seek an injunction. Decisions regarding enforcement action will always be made in accordance with the Council's Enforcement Guidance.

10) Bonfire Night

Street Trading Consents that are granted will be prohibited from operating on Bonfire Night in the Town of Lewes. A separate application will be required to be submitted to the Council for Street Trading on November 5th or the preceding Saturday if this falls on a Sunday. Applications for trading, which are located on consent streets are unlikely to receive Consent. Consent on these streets will only be granted in exceptional circumstances and additional conditions to promote public safety will be attached to any Consent granted. Applications on other streets will be assessed on their individual merits in consultation with the normal agencies.

11) Complaints and Enforcement

Legitimate complaints will be fully investigated in accordance with our procedures. Consent holders are expected to liaise with the Council to resolve complaints about them. Substantiated complaints may result in enforcement action being taken or a Consent being revoked. Such decisions will be made in accordance with the Council's Enforcement Guidance.

Where it is necessary to revoke a consent for contravention of conditions the consent holder shall be able to appeal the decision of the Licensing Senior Specialist Advisor and a report shall be prepared and presented to the Licensing Committee.

Complaints may also be taken into account when considering an application to renew a Street Trading Consent.

12) Review of the Guidance

This Guidance will be reviewed every five years. At the time of the review, we will again consult all interested parties. As well as the five-yearly reviews, we will

continue to evaluate the guidance and may update it at any time. Any minor changes can be agreed by the Senior Specialist Advisor.

13) Exemptions

The following fall outside of the Council's Street Trading controls, but may require consent or approval from other agencies:

Charitable Stalls in Lewes District Council Precincts Newhaven and Lewes

A separate application will be required to trade on the Council's land available from the Licensing Team at the Council.

Pedlars - Pedlars operate under the Pedlars Act 1871 and must obtain a Pedlar's Certificate from the Police. Pedlars are people who sell from place- to-place and cannot sell from a fixed pitch; they must move around and not wait for customers to come to them, they cannot stand in any one place for a considerable time, nor can they exhort those passing, to buy their goods. Pedlars can carry their goods and can use a wheeled trolley to transport them.

Hair braiding, face painting, henna tattoos etc. - The law which governs Street Trading relates to the selling of articles and, as such, people who provide a service e.g. hair braiders, are not considered by the Council to be trading for the purposes of the legislation. However, if quantities of accessories used in hair braiding are also offered for sale then this would be Street Trading and may require a Street Trading Consent. Persons providing services in the street should take care not to cause any nuisance or obstruction as this could result in the Police or another authority taking action.

Busking – Can be controlled by the Council, in conjunction with the Police if need be. If a busker, or a group of buskers, act in such a way as to cause a nuisance, then they may be asked to cease and leave the area. Buskers using amplified music will not be tolerated.

News vendors/selling periodicals e.g. Big Issue - Selling or offering for sale newspapers or periodicals either with or without a stall does not require any Consent, however if the stall stands on the carriageway of a street, it must be less than 1m in length and width, less than 2m high and occupy less than 0.25m² of ground. Stalls larger than this or in contentious locations may require Consent.

Rounds Man - Selling, offering or exposing for sale things as a rounds man does not require a Consent to trade.

Charity Stalls - Street Trading Consent is not required, but they will require a Street Collection Permit issued by Licensing.

Markets/Fairs – Street Trading Consent is not required for trading at market or fairs which are established by virtue of a grant, enactment or order.

Other markets or special events e.g. farmers or continental markets or late night Christmas shopping events may require consent. In such cases the Council will issue a single Consent to the organiser which will cover all traders at the event.

Where a market has been granted consent they shall be exempt from being required not to sell similar goods to adjacent fixed businesses due the nature of them being a market selling a variety of goods. However there may be a requirement to limit the number of lines of particular goods.

Streets Adjoining Premises – Street Trading Consent is not required for premises used as a shop or in a street adjoining premises so used and as part of the business of the shop.

A Trunk Road Picnic Area - provided by the Secretary of State under Section 112 of the Highways Act 1980.

A Petrol Filling Station - trading carried on at premises used as a filling station does not require Consent for Street Trading.

Highways Act 1980 the use for trading of an object or structure placed on, in or over the highway and the operation of facilities for recreation or refreshment under part 7A of the Highways Act 1980.

Street Collections the doing of anything authorised by regulations made under section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916.

14) Appendices to this Guidance will include:

Applications and Renewal processes; Fees; General Conditions and specifically conditions relevant to:

- A. General Conditions
- B. Motor Vehicle Conditions
- C. Fixed Site Conditions
- D. Stall Design and Dimensions
- E. Food Related Conditions
- F. Gas Safety Conditions
- G. Public Service and Charitable Use of Lewes and Newhaven Precincts Conditions
- H. Use of Petroleum Conditions
- I. Precinct Permits

Advice and guidance regarding:

- J. Definitions
- K. Guidance on Criminal Offences
- L. Offences

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Application Process

Applications, Renewals and Fees

Application forms and guidance are available at Licensing Office (see below) or can be downloaded from the Council website <https://www.lewes-eastbourne.gov.uk/licensing-and-registrations/>

Applications can be submitted by post to or delivered by hand to:

Licensing
Lewes District Council
Southover House
Southover Road
Lewes
BN7 1AB

Alternatively they can be submitted electronically to: customerfirst@lewes-eastbourne.gov.uk

If you are in Seaford you will need to apply to [Seaford Town Council](#) directly.

Submitting a New Application

The following will be required to be submitted with the application:

- a. a completed and signed application form;
- b. two forms of identification of the applicant;
- c. two passport sized photographs of the Applicant;
- d. the full application fee which is non-refundable unless circumstances are exceptional. This can be paid by card over the phone (01273 484354) or by cheque payable to "Lewes District Council";
- e. a copy of a certificate of Public Liability Insurance cover for at least £2,000,000 (two million pounds). You must not trade unless you have given us a copy of your insurance certificate. You must also give us evidence proving you have renewed insurance cover if it ends before the Consent does;
- f. if trading is to take place from a fixed site, a map should be submitted showing all streets within a radius of at least 500 metres of the proposed site. This should clearly identify the proposed location by marking the site boundary with a red line; and
- g. a plan which clearly shows the dimensions of the unit i.e. vehicle, trailer, stall, tent etc. and three colour photographs of the trading unit illustrating different elevations of the unit.

The following may be required with the application:

- h. For food businesses, evidence that it is properly registered with the appropriate Council and both applicant and assistants are adequately trained and competent in food safety and hygiene, e.g. it is recommended that food hygiene training is completed to at least Level 3 and that any course of training undertaken is approved by the Chartered Institute of Environmental Health.
- i. Basic Disclosure and Barring Services check (also known as a Criminal Records Check). Not more than one month old unless a previous DBS check has been submitted to the Authority within the last 12 months.
- j. Written permission from land owner to use the site for the purposes of Street Trading.
- k. MOT certificate and, as a minimum, third party insurance documents where a motorised vehicle will be used for Street Trading.
- l. If appropriate, a current Gas Safety Certificate. This is to be kept up to date throughout the period of Consented Trading.
- m. Evidence that appropriate consents, permissions and licenses have been obtained or applied for e.g. Planning, Building Regulation, Licensing Act such as for late night refreshment, sale of alcohol or provision of entertainment.
- n. Such other particulars as the Council may reasonably require.

Renewing an Application

To ensure continuity of an existing Consent, application for renewal should be made **at least 28 days prior to the expiry** of the Consent. **Failure to do this may result in the Consent being cancelled and a new full application having to be made. The following will be required to be submitted with a renewal application:**

- a. A completed and signed renewal application form.
- b. The appropriate fee in full which is non-refundable unless circumstances are exceptional. This can be paid by card over the phone or by cheque payable to "Lewes District Council".
- c. New photos of the applicant if appearance has changed.
- d. A copy of a Certificate of Public Liability Insurance cover for at least £2000,000 (two million pounds)
- e. a plan which clearly shows the dimensions of the unit i.e. vehicle, trailer, stall, tent etc. and three colour photographs of the trading unit illustrating different elevations of the unit.

- f. Such other particulars as the Council may reasonably require

Mobile Traders and Trading from Multiple Sites

Some applicants may wish to engage in Street Trading from a number of locations across the District rather than from a fixed location.

In such cases applicants must, when submitting the application, clearly identify, as far as reasonably practicable, all of the locations they wish to Trade from. If an applicant proposes to trade on streets where there is already an existing Street Trading Consent, commercial need will be a relevant consideration.

Sites that Attract Applications from more than One Applicant

Multiple Street Trading Consents may be granted to different applicants for the same site, provided specific trading days/periods are applied for do not clash. In normal circumstances only one Consent Holder will be permitted to Trade on a site and in its immediate vicinity (i.e. within 100 metres) at any one time.

Special Events/Markets

At such events/markets the Council will consider a single application and issue a single Consent, covering all Traders, to the person organising the event/market, rather than to each individual Trader. The Consent Holder will be responsible for ensuring that conditions are met by all Traders.

Charitable or Public Service Application for Consent to use Lewes or Newhaven Precincts

The Council offers the opportunity for the free use of these areas for the promotion of Public Wellbeing and Charitable giving or involvement in Public or Charitable service. This can include the incidental sales of related goods. This opportunity is subject to conditions applied in line with the Councils Guidance on Street Trading.

Occasional or seasonal sale linked to private property or community sites

It is not intended to unnecessarily prevent or restrict the ad hoc and occasional sale of goods such as surplus produce or homemade articles by individual householders or community groups, especially in more rural communities. Whilst such activity will need to be Consented only conditions to prevent nuisance, unfair competition or significant danger will be applied and only if essential.”

Service Standards for Processing your Application

We aim to process your application within seven working weeks from the date it is properly received as complete and it is not contentious.

In this time we will undertake several steps including:

1. Consult with some or all of the following before granting consent:

- Sussex Police
- East Sussex Fire and Rescue Service

- The Highways Authority, Children's Safeguarding Team, Public Health Network and Trading Standards at East Sussex County Council
- Various section of Lewes District Council, including: Planning, Public Health and Noise Control Team, Commercial Food and Occupational Safety Team, Parking Team, Clean/Green Team
- Relevant Ward Councillor of Lewes District Council
- Relevant East Sussex County Councillors
- Relevant Town and Parish Councils
- Local Business Groups or their Representatives
- Immediate Neighbours (usually by Public Notice in the area)

A period of 28 days will be allowed for comments to be received.

NB: It is unlikely that consultation will take place in respect of applications for a site that has an existing Consent (i.e. Renewals) or where Consent has recently expired, provided that no complaints have been received; the same goods are to be sold; and the application is largely the same as the existing or previous Consent. It is also likely that for new single day applications a trial day will be allowed without full consultation or with a much reduced consultation.

2. The Council's designated Licensing Specialist Advisor may display a Site Notice at the proposed site for 28 consecutive days for applications of 3 months or longer and if practicable.

3. The Council will maintain a register of consents, including mobile Traders which will be updated regularly.

4. The Council will make its decision as follows:

a) The Council's designated Licensing Specialist Advisor can grant most applications for Street Trading Consents under delegated powers.

b) However, where the Licensing Specialist Advisor believes the application should be refused or the application is very contentious e.g. because of objections, the Licensing Committee will be asked to make the decision. In addition, within the 28 day consultation period, local Ward Councillors have the option to request that the Licensing Committee consider any application about which there are serious concerns even if the Licensing Specialist Advisor is minded to issue Consent.

5. Where the application is to go before the Licensing Committee:

a. The Applicant is expected to attend and will be advised in writing of the date, time and place when the application will be heard.

b. The Applicant can be represented by a solicitor or supported by a colleague.

c. The Applicant will be given the opportunity to make representations to Committee both in writing and in person.

- d. Written representations will need to be received by a set date to ensure there is proper time to arrange and inform Committee members. **This will usually be at least seven working days before the Committee meeting.**
- e. The Council's designated Licensing Specialist Advisor will prepare a report for the Committee regarding the application. The report will be made available to the Applicant at least five working days before the date of the meeting.
- f. When considering the application the Committee will ensure that all persons receive a fair Hearing and a formal process will be followed to ensure this occurs.
- g. The application will be decided upon at the end of the Hearing and reasons for any decision will be provided in writing following the Committee meeting.
- h. There is no Appeal available against the Committee decision.

Duration of Consents and Fees

Street Trading Consents will initially be issued for one of the following periods:

- a) Daily
- b) Weekly
- c) Monthly
- d) 3 Monthly
- e) 6 Monthly
- f) Yearly

Consents are not transferrable to other individuals.

Consent holders not able to make use of their Consent on the appointed day(s) can request that the Consent is carried forward to a date to be agreed with the Council. Such requests are likely to be agreed if conditions such as poor weather or serious family illness or bereavement are established.

All fees must be paid in full in advance unless an alternative arrangement has been agreed with the Council. The Council's fees and charges can be found on our website.

Applicants will be advised of the appropriate fee which may vary according to the type and regularity of trading.

Failure to pay fees may result in any Consent being revoked or, in the case of renewal, the Applicant not being permitted to engage in Street Trading once the previous Consent has expired. Non-payment of renewal fees may also result in any subsequent application being treated as a new application. Consent fees are set by the Licensing Committee.

Appendix A – General Conditions that will normally be attached to Street Trading Consents

General conditions will be attached to all Consents detailing the Consent Holder's responsibilities.

The general conditions may include provisions to ensure:

- maintaining public safety;
- preventing nuisance;
- generally preserving the amenity of the locality;
- limitations on the days and the hours when Street Trading is permitted;
- the goods which may be sold;
- the size of the trading pitch; or
- any other relevant matter.

Additionally, conditions may be attached which relate specifically to the type of Consent granted. These conditions may include special controls or be drawn from relevant sections of the following Appendices:

- a) General Conditions
- b) Motor Vehicle Conditions
- c) Fixed Site Conditions
- d) Stall Design and Dimensions
- e) Food Related Conditions
- f) Gas Safety Conditions
- g) Public Service and Charitable Use of Lewes and Newhaven Precinct Conditions
- h) Use of Petroleum Conditions
- i) Bonfire Night Plan

In addition the following Appendices provide guidance to be used in considering applications and Consent implementation:

- j) Definitions
- k) Guidance on Criminal Offences
- l) Offences

Failure to comply with conditions may lead to prosecution, revocation or non-renewal of Consent. Persons engaging in Street Trading without Consent may be liable to prosecution. Decisions regarding enforcement action will be made in accordance with the Council's Enforcement Guidance.

THE GENERAL CONDITIONS

The Consent Holder shall:

1. only Trade on the days and between the times stated on the Consent. Trading will not generally be permitted between 23:00 and 07:00 hrs or on Christmas Day, Easter Sunday or on Bonfire Night;
2. only Trade in the position, and way described or Trade in the articles stated on the Consent;
3. not begin setting up more than 60 minutes before any trading start time in the Consent;
4. at the end of any trading day, remove from the highway all goods, receptacles, structures and any other objects associated with trading no later than 60 minutes after the time shown on any Consent;
5. ensure that disabled people and wheelchair users can be adequately served. This may involve serving persons from outside the vehicle;
6. ensure that all goods, receptacles, structures and any other objects associated with trading are easily and immediately removable in the event of emergency access being required;
7. when carrying on business relating to a Street Trading Consent, be sober, conduct him/herself, and ensure persons under his/her control conduct themselves, in a proper, civil and courteous manner and not use behaviour or language which could reasonably be seen as abusive, harassing or intimidating;
8. at all times conduct business and position all goods, receptacles, structures and any objects associated with trading, or used in connection with his/her business, in such a manner to prevent danger to persons trading or likely to be affected by trading;
9. ensure all risks in connection with the trading activity are assessed and reviewed periodically. Ensure any identified risk reduction measures are put in place. Risk assessments to be made available to an Authorised Officer of the Council for inspection.
10. at all times conduct his/her business in a clean and tidy manner;
11. make a copy of the Consent immediately available, upon request, to an authorised Officer of the Council or the Police;
12. if appropriate, ensure a current Gas Safety Certificate is valid for the trading activities throughout the period of trading. A copy of this Certificate is to be provided to the Council;

13. wear, and ensure any assistants wear, any identification badges issued by the Council at all times of trading;
14. allow access to, and comply immediately with, all reasonable directions given by the Council, its authorised Officers or Police Officers regarding any Street Trading.
15. Ensure a responsible person always is in attendance and available to receive such directions;
16. report any change that occurs in the particulars and information contained in the application for the Consent, such as a change of address, to the Licensing Authority within 72 hours of it occurring;
17. indemnify the Council against all claims, liabilities, actions, demands and expenses whatsoever in respect of, or in any way arising out of any Consent to Trade granted by the Council and shall, without prejudice to the foregoing, maintain in force at all times with a reputable insurance company approved by the Council a valid Public Liability Insurance Guidance to a minimum value of £2,000,000 (two million pounds) and shall provide, on request, and to the satisfaction of the Council, the insurance certificate and evidence of full premium payment. If the Consent to Trade is terminated by the Council for any reason the Council shall accept no liability for financial or other loss of the Consent Holder; ensure that they comply with the requirements of the Council's guidance document on the safe use, handling, storage and transportation of Liquefied Petroleum Gas (LPG) used in mobile catering units or similar units, see Appendix B and F;
18. ensure all stalls and vehicles are provided with adequate and appropriate fire extinguishers, which shall be regularly serviced and certified accordingly. 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. Where hot fat/oil cooking facilities are provided a fire blanket should be provided and so positioned as to allow the blanket to be withdrawn easily and quickly; and
19. ensure cooking and heating appliances are positioned well clear of tent, walls and roofs. Where bottled gas is to be used the Appendix B and E of the conditions for LPG should be followed as appropriate. Cylinders should stand outside any tent, or similar structure, and should be handled and changed only by persons fully conversant with the supplier's instructions. Precautions should be taken to prevent tampering with cylinders or valves, and to prevent cylinders (and associated pipework) being damaged or falling.

The Consent Holder shall not:

1. under any circumstances, Trade on consent areas in Lewes Town on Bonfire Night - November 5th or the preceding Saturday if November 5th falls on a Sunday;

2. cause obstruction or danger to people using the street. In particular, not block access for disabled people, disabled parking or force disabled people to use inappropriately surfaced areas.
3. place, store, sell, expose or offer for sale any article outside any specified trading area;
4. sell, expose or offer for sale goods similar to and in direct competition with fixed businesses or other Consented Traders within 100 metres without prior consent;
5. trade close to the boundaries of hospitals or care premises (within 250 metres) or schools (500 metres);
6. permit any person to assist in trading unless the details of that person have been supplied to in writing and approved by the Council;
7. sell, display or wear merchandise or items which are likely to cause offence or distress to any other person or which would be deemed an offence under any other legislation. The Licensing Specialist Advisor should be consulted if doubt exists on whether article/material could be considered offensive, his/her decision is final;
8. place or display advertisements or other notices in the immediate area of the trading site without the approval of the Council;
9. place any furniture or equipment in the immediate area of the premises other than as permitted by the Consent;
10. transfer any Consent or dispose of any Consent to any other person;
11. cause any nuisance or annoyance to persons using the street or to the occupants of any properties in the vicinity. No amplification equipment shall be used unless authorised by the Council;
12. leave rubbish or other waste arising from trading activity, or allow it to be left or accumulate, on or around any Consent site. Removal and disposal of rubbish must be to the satisfaction of the Council - this may require a special collection to be arranged and relevant details to be provided;
13. use any device for the generation of electricity, light or heat without the Council's permission.
14. use oil burning appliances for lighting, heating or cooking. No naked flames, including candles, should be used;
15. sell or display articles such as firearms, replica firearms, knives, tobacco or fireworks;

16. bring pets or other animals to the trading site without written permission from the Council;
17. sell or offer goods for sale as 'seconds', soiled or damaged, unless a clear notice is displayed stating this; or
18. make any excavations or indentations of any description whatsoever in the surface of the highway or fix any equipment of any description on or in the street surfaces.

The Council reserves the right, if it considers it to be reasonably necessary, to alter or amend these conditions at any time.

Any Consent is issued without prejudice to any other statute, bye-law or regulation. Consent does NOT override any regulations regarding planning, parking, food hygiene, obstruction, noise nuisance etc.

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APPENDIX B - Motor Vehicle Conditions

1. Any vehicles and trailers used for the purposes of Street Trading shall be removed from the highway when the Consent is not in operation.
2. Any motor vehicle used for the purpose of Street Trading shall at all times be in a roadworthy condition and have the relevant and up to date documents i.e. insurance, tax and MOT to make the use of that vehicle on a road legal. These documents will be produced by the Consent Holder to any Police Officer or authorised Officer of the Council.
3. Where the Trader trades from a stationary vehicle, that vehicle shall, in all respects, comply with the Road Vehicles (Construction and Use) Regulations 1986. Motor vehicles shall be capable of their own propulsion and shall not be towed into trading positions.
4. All vehicles shall be provided with adequate and appropriate fire extinguishers which shall be regularly serviced and certified accordingly.
5. The Trader must not park or site their vehicle within 500 metres of any school; 250 metres of any hospital or care premises or within 20 metres of any road junction.
6. The Trader must not trade from a point within 100 metres of an existing Trader of a similar nature without the consent of the Council.
7. The Trader shall comply with Appendix D and E relating to use of LPG and sale of food as appropriate.
8. The Trader shall retain with his vehicle or stall or other mode used for trading, any water used or waste produced until the end of each period of trading on each day of such trading and then remove it or dispose of it appropriately elsewhere and, in particular, shall not deposit any such waste near or into any street, drain or channel.
9. The Trader's vehicle must not obstruct the free flow of pedestrians or traffic at any time.
10. The Trader must not park, or site their vehicle, on a classified road or prohibited area at any time.
11. The Trader must comply with all reasonable instructions given by Officers from the Council, Police and/or Highways Authority regarding the initial location and relocation of sites and other such related matters. If a Consent Holder or operator/assistant is requested to move the vehicle/stall by an authorised Council Officer or Police Officer they shall immediately comply with that request.
12. The appearance of vehicles must not be detrimental to the existing properties in the area in which the vehicle is stationed

13. All goods shall be displayed on the vehicle and no freestanding racks or displays are permitted.

APPENDIX C – Fixed Site Conditions

1. The Consent Holder shall ensure that sufficient sanitary accommodation is available for both the Consent Holder and assistants when operating at a static site.

APPENDIX D – Stall Design and Dimensions

1. In the case of markets, stalls of traditional timber barrows, stalls of a metal frame construction, gazebos or umbrellas will be preferred. Stalls consistent with the majority of others in a particular market will be preferred in order to promote a co-ordinated appearance. All stalls should comprise protection from the rain and sun as well as tables or other suitable devices for displaying goods off the floor. Stalls may be of a walk-up or walk-in design but must have a valance between the table top and the ground to enclose stock, equipment and waste containers.
2. Market stalls and ancillary equipment and stock must be contained within the stall. The licensing authority may vary the pitch dimensions of the entire market or any individual stall in line with the relevant statutory procedures.
3. Canopies, awnings and tarpaulins with traditional stripes are preferred. These should consist of a bold traditional stripe on a white or cream background or solid colour. Canopies, awnings and tarpaulins must be secured to the support structures neatly and securely, with adequate tension and no sharp projections.
4. Trading from vehicles will not usually be permitted on the precincts. Generally, trading from vehicles will only be allowed from the pitches at the ends of the markets or from within a zone of a market designated for the purpose (for example, a cluster of food stalls). The vehicles should be appropriate for their prominent position in the market. Similarly, trading from trailers or caravans will not usually be permitted. If trailers are to be approved in locations such as those for vehicles, their visual appearance should not be damaging to their surroundings.
5. In every case it is expected that design, construction and maintenance of stalls will be of a high standard. Designs, materials, signs and finishes should be appropriate for the surroundings. Modern or unique designs may not be acceptable in traditional areas but will be considered in places where the surroundings are outside the areas designated as places of architectural or historic interest.
6. A simple, coherent and traditional colour scheme is required, avoiding the use of bright or garish colours. For example plain, darker colours including green, maroon, black or blue combined with white or cream will be acceptable.

7. Small canopies/awnings are permitted only for the purpose of weather protection. In certain locations the use of canopies/awnings may not be acceptable. Such canopies/awnings must be specifically set out in the documentation submitted for stall approval. No goods or unauthorised signage shall be displayed on the canopy or awning.
8. Stalls should not be used to display stock on the outside surfaces of the stall (including the roof and awnings) unless such display equipment has been specifically included within the stall's approval. The use of gaudy or luminous colours for any permitted sign or branding is not acceptable.
9. Merchandising: Consideration should be given to the merchandising of goods. Use of racking, baskets, displays and other equipment should support the overall brand image and complement the overall appearance of the unit. Use of third party branded equipment or make-shift equipment (such as commercial fridges or metal baths displaying canned drinks or plastic buckets for goods), will not normally be acceptable.
10. Lighting: Consideration should be given to the appropriate lighting of both the commodities and how these are merchandised. Excessive lighting or inappropriate lighting is unlikely to assist trade. Consent holders should consider how their stall appears both during the day and evening when operational. Large halogen lights are inefficient and inappropriate, often causing glare. Backlit menus, price lists or video displays should be avoided.
11. Neon, animated, flashing lights, LEDs etc., including their use to make up words or graphics, will not normally be permitted. However where a particular lighting solution plays an integral part on the overall design and branding of the stall and goods, then consideration for an exception to this rule may be undertaken. Pin spots, halo lighting and in some circumstances feature lighting may be acceptable.
12. Appropriate festive lighting for holidays or special events is acceptable, particularly in the darker winter months.
13. Prior to any Consent being issued or in cases where a licensed trader wishes to change the stall, prior approval must always be sought from the licensing service. Proposals must include all display equipment and any attached, projecting or free standing elements.
14. Stalls and structures that are allowed to remain in place overnight and any new area of highway used for street trading will need planning permission. Where a structure is left on the street overnight and does not have this permission, proceedings may be taken for a breach of the Consent and/or for highway obstruction. Consideration will also be given to seeking a revocation of the Consent for a persistent failure to remove the stall or structure.
15. Stalls shall not be greater than 2.3 metres in height nor occupy an area greater than 2.5 metres x 1.5 metres unless without prior approval from the

Licensing Authority. The maximum area a single consent holder may have must not exceed 6 m². Market operators may set their own size and dimension requirements with their traders but must not exceed the agreed plan as stipulated in the consent.

16. Stalls should not normally be within 1.75 metres of a shop frontage to allow sufficient distance for persons to gain access to shops.

APPENDIX E – Food Related Conditions

1. The Consent Holder, if intending to sell food from a stationary vehicle/stall shall operate from a purpose made vehicle/stall constructed and managed so as to comply with the relevant hygiene regulations currently in force and any subsequent changes to those regulations. There must be an up to date registration of the food business with the Council.
2. All hot food vans/trailers are required to comply with current legislation on fire safety, see Appendix F. Where gas cylinders are used an annual Gas Safety Certificate shall be required to ensure the safety of all gas cooking and heating equipment. A fire blanket and a foam fire extinguisher shall be provided in all vehicles selling hot food.
3. All hot food vans/trailers are required to carry a basic first aid kit.
4. The Consent Holder shall ensure that litter checks are carried out regularly in the vicinity of the trading area and litter attributed to the activity is collected and disposed of to the satisfaction of the Council.
5. A Consent Holder selling food shall at all times comply with any Food Hygiene Regulations in force at that time, and when required by the Council or its Officers, shall produce appropriate Food Hygiene Training Certificates for relevant food handlers.
6. The Consent Holder shall provide and maintain at his own expense adequate refuse receptacles for litter.
7. Odour from any flue used for the dispersal of cooking smells serving the site shall not cause nuisance to the occupants of any properties in the vicinity. It is recommended that any flues for the dispersal of cooking smells shall either:
 - i. terminate at least 1 metre above the ridge height of any building in the vicinity, with no obstruction of upward movement of air; or
 - ii. have a method of odour control such as activated carbon filters, electrostatic precipitation or inline oxidation.
8. The Food Hygiene Rating Scheme score must be visibly displayed at all times when trading. Traders are expected to achieve a score of at least “3”.

APPENDIX F - Gas Safety Related Conditions

1. Gas appliances, including pipework, should be installed and regularly serviced and maintained by a competent person (Gas Safe registered for LPG). A current Gas Safety Certificate to be submitted with each application and to be maintained throughout the period of trading.
2. Cylinders should be fitted with automatic cut-off valves and be protected from tampering.
3. Cylinders must be stored upright so that they cannot fall and be positioned away from heat and ignition sources.
4. Gas storage compartments in trailers or stalls must have complete half an hour fire protection. Access to the compartment must be from the outside of the unit and there should be adequate ventilation at high and low levels.
5. The cylinder must be secured in an upright position and be securely fastened during transit.
6. All gas pipes and fittings should be to the correct British Standard for LPG and kept as short as possible with appropriate crimp or compression fittings (not slip-on fittings).
7. All gas pipes should be protected from abrasion or mechanical damage (armoured if subject to temperatures over 50°C).
8. Flexible gas piping must be checked regularly and replaced if damaged or worn.
9. All gas appliances must be fitted with a flame failure device and be adequately ventilated.
10. All fryers should be fitted with an automatic high temperature-limiting device (operates at a fat temperature of 250°C or lower).
11. Suitable warning signs indicating: '**Caution – LPG**'; and '**Highly Flammable**' and should be clearly displayed.
12. People who change the cylinders should be properly trained and a safety notice on how to connect and disconnect the LPG bottles should be displayed in the gas compartment.
13. Cylinder valves and gas appliances must be turned off when not in use.

APPENDIX G - Conditions for Public Service or Charitable activity in Lewes and Newhaven Precincts

In addition to the General Conditions the use of the precincts is subject to the following:

1. As a general rule stalls, units, vehicles or displays should be positioned in the widest parts of precincts and obstruction reduced as far as possible.
2. All vehicles, unless an agreed part of the activity/event and in the agreed position, must be removed from the precinct.
3. The granite paving area of the Lewes precinct is able to be used only by activities, units, displays, stalls or vehicles that can be cleared immediately in the event of need for emergency access.
4. The “blue brick” area of Newhaven High Street shall be kept clear and not be used without express consent of the Council.
5. Public rights of way must be maintained as far as reasonably practicable.
6. Emergency access routes to be maintained clear to the satisfaction of the Council or Emergency Services.
7. Amplification is not permitted unless with prior permission from the Council.

APPENDIX H - Use of Petroleum

Any Trader using any petroleum fuelled device must complete a documented Risk Assessment, submit the Risk Assessment with their application, and must keep the Risk Assessment at the site where trading is taking place. The Assessment must be available to an authorised Officer of the Council or the East Sussex Fire and Rescue Service on demand.

The Risk Assessment must address at least the following matters:

- A) the position and siting of the device;
- B) the storage container for fuel for the device;
- C) the labelling of the fuel container;
- D) the number, type and maintenance of fire extinguishers at the site;
- E) the provision of fire blankets; and/or
- F) the prevention of hazard, nuisance from fumes or noise.

For guidance please be aware of and implement the following, as applicable:

- Fuel must be stored away from the stall in a container of a type approved under the Petroleum Spirit (Motor Vehicles) Regulations 1929 or Petroleum Spirit (Plastic Containers) Regulations 1982.

- All petroleum spirit, or other highly inflammable liquid used in connection with the device, must be stored in a metal container with a secure leak-proof cap not exceeding 10 litres or a plastic container not exceeding 5 litres capacity.
- The container to be labelled “Petroleum Spirit Highly Inflammable”.
- The container shall be stored securely and remote from sources of ignition.
- 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. Where hot fat/oil cooking facilities are provided a fire blanket should be provided and so positioned as to allow the blanket to be withdrawn easily and quickly.
- Use of the device should not cause hazard, fume or odour nuisance.

APPENDIX I – Precincts Permits

The following standard conditions shall apply to all precinct permits. Further additional conditions may be applied to permits.

1. This permission is not transferrable.
2. The tables, chairs and umbrellas shall only be placed outside the premises between the hours of 8 am and 6 pm.
3. The area so permitted to be used solely for the purpose of consuming food and drink purchased on the premises. It is strictly forbidden to prepare any food and drink in the area so permitted by this permit.
4. The tables, chairs and umbrellas shall be of such a design as may be approved by the Council in writing and be kept in good repair and condition at the Permit Holder’s expense.
5. Nothing contained in this permit gives the holder permission to make fixtures to or excavations of any kind in the surface of the highway which shall be left entirely undisturbed.
6. The Permit Holder shall make no claim or charge against the Council in the event of the chairs or tables or other objects being lost, stolen or damaged in any way from whatever cause.
7. The Permit Holder shall indemnify the Council against all actions, proceedings, claims demands and liability which may at any time be taken, made or incurred in consequence of the use of the chairs & tables & other objects and for this purpose must take out at the Permit Holder’s insurance approved by the Council in the sum of at least £2,000,0000 (TWO MILLION POUNDS) in respect of any one event and must produce to the Council on

request the current receipts for premium payments and confirmation of the annual renewals of the guidance.

8. No charge shall be made by the Permit Holder for the use of the chairs and tables and other objects.
9. Waste from the Permit Holder's operations must not be disposed of in the permanent litterbins provided by the Council.
10. Refuse and litter deposited on the highway in the vicinity of the chairs and tables and other objects must be removed each day by the Permit Holder at their expense or at more frequent intervals as may be required by or under the Environmental Protection Act 1990.
11. The Permit Holder shall remove the tables, chairs and windbreaks from the highway outside the hours permitted or immediately if required to do so as to permit works in or the use of the highway by:
 - a. The Council, County Council, the police, fire & ambulance services, any utility operator, or
 - b. Builders' vehicles, hearses and furniture removal vans
12. The Permit Holder shall be responsible for any rates, taxes and other outgoings which may be charged.
13. The permission shall run from the date of this Permit for a term of one year.
14. The Council reserves the right to revoke this Permit forthwith if the Permit Holder breaches any of the conditions contained herein.
15. If the area to be licensed is contained within a Designated Public Space Protection Order then the area shall be clearly delineated by the use of barriers of a suitable nature to be agreed with the Licensing Authority.

APPENDIX J - Definitions

“Advertisement” - means any word, letter, model, sign, placard, board, notice, whether illuminated or not, the nature of, and employed wholly or partly for the purposes of: advertisement, announcement or direction and includes hoarding or similar structure or any balloon used, or adapted for use for the display of advertisements, and references to the display of advertisement shall be constructed accordingly.

“Awning” - means a sheet of canvas or other material, used as a protection against the weather, which projects as an extension of the roof beyond the structure of the stall.

“Assistant” - means a person employed by and acting under the directions of a Trader to assist him/her about the business of the stall and whose name and address has been notified to the Council.

“Bonfire Night” - November 5th or the preceding Saturday if this falls on a Sunday.

“Consent Holder” - the person granted a Consent by the Council to undertake Street Trading.

“Consented Street Trading Pitch” - means a pitch in any street authorised as a place at which Street Trading may be engaged in by a Street Trader, and includes any temporary alternative place approved by the Council or a duly authorised Officer of the Council.

“The Council” - means the Lewes District Council and usually it’s Licensing or Environmental Health Service.

“Goods” - means any goods, wares or merchandise for sale at a stall.

“Premises” - means any shop, house or block of flats behind or adjacent to the licensed pitch.

“Refuse” - includes any waste material.

“Stall” - means any structure used by a Trader for the display of goods, or in connection with his or her business and which occupies a licensed Street Trading pitch; and includes all goods offered or to be offered for sale and any additional structure or equipment used as part of the stall or business. This also included all rubbish or refuse created as a result of the business.

“Street” - any part of a street and includes any road, footway, beach or other area to which the public have access without payment.

“Street Trading” – means the selling or exposing or the offering for sale of any article (including a living thing) or the supplying or offering to supply any service in a street for gain or reward.

“Street Trading Consent” – means a Consent granted under the Act and valid for not more than three years. Please Note: The use of a street as a smoking area outside premises is not considered to be Street Trading. The Council will not therefore usually consider requests for Consent where the use is solely for these purposes.

“Trader” - means a person in whose name a current Consent is held authorising Street Trading.

“Temporary Consent” – means a Consent granted under the Act valid for a single day or for a period not exceeding 6 months.

“Vehicle” – includes any trailer, stall, barrow, cart etc., used in connection with trading.

Any other term not defined in these conditions shall have the same meaning as in

the Local Government (Miscellaneous Provisions) Act 1982.

APPENDIX K - Guidance on Criminal Convictions and Street Trading

Each case will be decided on its own merits however, the Council may refuse to grant or renew a Street Trading Consent on any of the following grounds:

- a. there has been a conviction/caution for an offence involving dishonesty, indecency, certain sexual offences, violence or drugs;
- b. there has been a conviction/caution for an offence under the relevant licensing legislation; or
- c. any other reasonable grounds.

If a period of imprisonment, community sentence or Court Order is imposed, the applicant must show a minimum of 3 years without further convictions from the end of imprisonment or sentence, not the reduced sentence.

A person with a current unspent conviction for serious crime need not be permanently barred from obtaining a Consent, 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.

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, 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, i.e. within the last 5 years, 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 application.

APPENDIX L – Offences

The Local Government (Miscellaneous Provisions) Act 1982 provides as follows:

a) Schedule 4, paragraph 10

(1) A person who:

- (a) engages in street trading in a prohibited street; or
- (b) engages in street trading in a licence street or a consent street without being authorised to do so under this Schedule; or
- (c) contravenes any of the principal terms of a street trading Consent; or
- (d) being authorised by a street trading consent to trade in a consent street, trades in that street—
 - (i) from a stationary van, cart, barrow or other vehicle; or
 - (ii) from a portable stall,without first having been granted permission to do so under paragraph 7(8) above; or
- (e) contravenes a condition imposed under paragraph 7(9) above, shall be guilty of an offence.

(2) It shall be a defence for a person charged with an offence under sub-paragraph above to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

(3) Any person who, in connection with an application for a street trading Consent or for a street trading consent, makes a false statement which he knows to be false in any material respect, or which he does not believe to be true, shall be guilty of an offence.

(4) A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Report Title: Approval of Licensing Fees 2019/20
Report To: Licensing Committee **Date:** 14 February 2019
Cabinet Member: Councillor Linington
Ward(s) Affected: All
Report By: Tim Whelan - Director of Service Delivery
Contact Officer(s)- Ed Hele – Functional Lead Quality Environment
Ed.hele@lewes-eastbourne.gov.uk – 01273 484014

Purpose of Report:

1. To approve the scale of licensing fees proposed within Appendix 1 to apply from 1 April 2019.

Officers Recommendation(s):

1. To approve the scale of licensing fees proposed within Appendix 1 to apply from 1 April 2019.
 2. That the Licensing Committee recommends to Council that it formally ratifies the fees.
-

2 Reasons for Recommendation

- 2.1 To ensure that the licensing fees are approved by the Licensing Committee.

3 Information

- 3.1 Councillors will be aware that licensing fees should be set by the Licensing Committee and then ratified by Council. If the Licensing Committee approves the fees set out in Appendix 1 these will be reported to Council for ratification. The table below summarises the estimated financial impact of the fees proposed to apply from 1 April 2019 as detailed in Appendix 1. The table also shows the estimated licensing fees income.

Lewes District Council Services	Budgeted income estimate for 2018/19 £	Additional income forecast for 2018/19 £	2019/20 indicative income forecast £
Discretionary charges (i.e. where fees are set by Lewes District Council)			
Consent Streets (Street Trading)	6,100	0	6,000
Scrap Metal Licensing	2,000	0	2,000
Taxi Licensing	154,000	1,000	155,000
Gambling Act 2005	2,000	0	5,000
Caravan/HMO Licensing	2,000	0	2,000
Environmental Health Licensing	6,400	0	4,000
Animal Welfare	6,200	2,000	10,000
Total Discretionary Charges	178,700	3,000	184,000
Statutory charges (i.e. where fees are prescribed by Government)			
Licensing Act 2003	79,800	0	82,000
Total income estimates	258,500	3,000	266,000

- 3.2 The Committee are reminded that the licensing service operates on a self-financing, year-by-year basis except the Licensing Act which has statutory charges. This means that the Council has the discretion to set fees for these services on a cost recovery basis with appropriate adjustments for any over or under spend from the previous year. In the event that any one of these best estimates proves to be too wide of the mark revised fees will be calculated in order to comply with the statutory requirements and these would be brought back to the Licensing Committee.
- 3.3 The table above also lists those statutory services where fees and charges are prescribed by Government. Changes in the level of fees and charges set by Government are implemented as and when they are issued by the appropriate Department and communicated to service users through appropriate channels, e.g. through the Council's website.

- 3.4 Members will see from Appendix 1 the proposed fees for 2019/20. The Financial Performance of Licensing can be seen at Appendix 2.
- 3.5 Taxi Licensing warrants particular mention because the recent surge in applications has led to a surplus being generated (see Appendix 3) that needs to be re-invested back into the service. The primary reinvestment has been to recruit additional staff to meet the additional workload, the cost of which will be met from the current surplus. Officers will maintain this higher level of staffing all the time that the current level of demand warrants it, so that the service can be fully resourced and paid for by the trade. Over time the surplus will be fully utilised for reinvestment so that the annual fees can remain stable and not be affected by the vagaries of supply and demand.
- 3.6 Although all other licensing functions operate similarly on a cost recovery basis, the reality is that the low levels of demand preclude the setting of fees that are self-financing without making them unaffordable. Appendix 3 sets out the financial position for each class of licensing activity showing the estimated deficit at 1 April 2019.
- 3.7 If taxi fees are varied then there is a statutory process under section 70 of Local Government (Miscellaneous Provisions) Act 1976 in relation to private hire vehicle, operators and hackney carriage proprietor's licences. Whilst not a requirement for drivers licences we would normally follow the same process.
- 3.7 New legislation for Animal Welfare was introduced in October 2018 which has brought together a number of different statutes into one regime. It is known that there is additional work involved with risk assessments and fees are set based upon cost recovery. It is anticipated that there will be additional income resulting from Animal Welfare.

4 Financial Appraisal

- 4.1 The Licensing fees set out in this report form part of the Council's overall fees and charges review process for the setting of the General Fund budget and the council tax for 2019/20. The review has been carried out within the statutory framework which requires that fees received under one licensing regime must not be used to subsidise fees charged under another. Similarly the review has been carried out on a cost recovery basis without making fees unaffordable in the current economic climate and risking non-compliance. The financial effect of this year's annual review is to predict an increase in income of £7,500 that will be included within the budget to be proposed to Council on 25 February.

5 Legal Implications

- 5.1 The fees must be charged in accordance with the requirements of the particular legislation and the relevant case law. Members are asked to note that in terms of licensing fees some fees are set by central government and some are locally set. For example the Licensing Act 2003 gives the Council no discretion as the fees and charges are set by central government. Other legislation such as the Local Government (Miscellaneous Provisions) Act 1982

which covers street trading and sex establishments state that the Council may charge such fees as they consider reasonable.

5.2 In deciding what is reasonable case law, including *R v Manchester City Council ex parte King*, has clarified that reasonable does not imply a wide discretion but that the fees charged shall relate to the level of costs reasonably expected to be incurred in providing the service. Further the Council must take account of the European Services Directive 2006 (which does not strictly apply to taxi and gambling licences) which reinforces the principle to be applied to the setting of local fees and charges in that they shall be reasonable and proportionate to the cost of procedures and formalities and shall not exceed those costs.

5.3 Report viewed by Legal section on 1 February 2019 (IKEN 8000-MW).

6 Risk Management Implications

6.1 I have completed the Risk Management questionnaire and this report does not require a risk assessment because the issues covered by the recommendations are not significant in terms of risk.

7 Equality Screening

7.1 Equality analysis of our services is undertaken on a regular basis as part of a scheduled program.

8 Background Papers

8.1 Open for business: LGA Guidance on locally set licence fees.
<https://www.local.gov.uk/open-business-lga-guidance-locally-set-licence-fees>

9 Appendices

9.1 Appendix 1 - Proposed Licence Fees and Charges 2019/20.

9.2 Appendix 2 – Licensing Financial Performance

9.3 Appendix 3 – Licensing Financial Appraisal

1 LICENSING

2 Street Trading Consents (Lewes and Newhaven Precincts)

3 Individual Traders

4 Application Fee 25.00

5 Standard Stalls - (up to 1.5m x 2.15m) Daily 10.00

6 Standard Stalls - Weekly 75.00

7 Standard Stalls - Monthly 150.00

8 Standard Stalls - 3 Months 275.00

Standard Stalls - 6 Months 475.00

9 Stall - Annual 600.00

10 Market Operators Per annum 430.00

11 Total Estimated Annual Income (Street Trading Consents) 6,100

12 Concessions

Event by a charity (inc street collections)

2018/2019 Current charge £pence	2019/2020 Proposed charge £pence	VAT	Increase £pence	Increase %
25.00	25.00	e	0.00	0.0%
10.00	10.00	e	0.00	0.0%
75.00	75.00	e	0.00	0.0%
150.00	150.00	e	0.00	0.0%
275.00	275.00	e	0.00	0.0%
475.00	475.00	e	0.00	0.0%
600.00	600.00	e	0.00	0.0%
430.00	430.00	e	0.00	0.0%
6,100	6,000		-100	
Free upon approval from Licensing Officer	Free upon approval from Licensing Officer			n/a
375.00	375.00	e	0.00	0.0%
375.00	375.00	e	0.00	0.0%
255.00	255.00	e	0.00	0.0%
255.00	255.00	e	0.00	0.0%
75.00	75.00	e	0.00	0.0%
2,000	2,000		0	0.0%

13 Scrap Metal Dealers Act 2013

14 Site Licence - New 375.00

15 Site Licence - Renewal 375.00

16 Collector - New 255.00

17 Collector - Renewal 255.00

18 Licence Variation 75.00

19 Total Estimated Annual Income (Scrap Metal) 2,000

20 **TAXI LICENSING**

21	Knowledge Test Hackney Carriage	
22	Knowledge Test Private Hire	
23	Drivers License Application Fee	
24	Hackney Carriage and Private Hire Driver's Licence (Renewal)	1 Year
25		3 Years
26	Hackney Carriage and / or Private Hire Vehicle Licence	
27	Private Hire Operator Licence Application	
28	Private Hire Operator Licence 1 Year up to 5 Vehicles	
29	Private Hire Operator Licence 1 Year 6 - 10 Vehicles	
30	Private Hire Operator Licence 1 Year 11 - 20 Vehicles	
31	Private Hire Operator Licence 1 Year 21 - 40 Vehicles	
32	Private Hire Operator Licence 1 Year 41 - 80 Vehicles	
33	Private Hire Operator Licence 1 Year 81+ Vehicles	
34	Private Hire Operator Licence 5 Year up to 5 Vehicles	
35	Private Hire Operator Licence 5 Year 6 - 10 Vehicles	
36	Private Hire Operator Licence 5 Year 11 - 20 Vehicles	
37	Private Hire Operator Licence 5 Year 21 - 40 Vehicles	
38	Private Hire Operator Licence 5 Year 41 - 80 Vehicles	
39	Private Hire Operator Licence 5 Year 81+ Vehicles	

40	Replacement of Lost /Damaged Licence Plates	
41	Replacement of Driver's Badge	
42	Transfer of Licence Plate to Different Vehicle	
43	Temporary Transfer of Vehicle Licence (Inc. Test and Seal)	
44	Transfer of Ownership	
45	Vehicle Change of Use	
46	Driver's Licence - Change of Use as Above	
47	Change of Address	
48	Missed Appointment	
49	Total Estimated Annual Income (Taxi Licensing)	

From Private Hire to Hackney Carriage and vice versa

50 **Licensing Act 2003**

51	Premises Licence and Club Premises Certificates	
52	(Licence fees are linked to non-domestic rateable value of the premises)	
	Application Fee	

Statutory fees apply as shown below

53	Band A	
54	Band B	
55	Band C	
56	Band D	
57	Band E	
58	Annual Charge	
59	Band A	
60	Band B	
61	Band C	
62	Band D	
63	Band E	

64	Minor variation application	
65	Dis Application DPS	
66	Personal Licence	
67	Tempory Event Notice	
68	Theft, loss etc of premises licence summary	
69	Application for a provisional statement where premises being built etc.	

2018/2019	2019/2020		Increase	Increase
Current	Proposed			
charge	charge			
55.00	55.00	e	0.00	0.0%
45.00	45.00	e	0.00	0.0%
130.00	130.00	e	0.00	0.0%
115.00	115.00	e	0.00	0.0%
300.00	300.00	e	0.00	0.0%
160.00	160.00	e	0.00	0.0%
150.00	150.00	e	0.00	0.0%
155.00	155.00	e	0.00	0.0%
185.00	185.00	e	0.00	0.0%
235.00	235.00	e	0.00	0.0%
345.00	345.00	e	0.00	0.0%
565.00	565.00	e	0.00	0.0%
675.00	675.00	e	0.00	0.0%
490.00	490.00	e	0.00	0.0%
625.00	625.00	e	0.00	0.0%
895.00	895.00	e	0.00	0.0%
1,440.00	1,440.00	e	0.00	0.0%
2,530.00	2,530.00	e	0.00	0.0%
3,070.00	3,070.00	e	0.00	0.0%
40.00	40.00	e	0.00	0.0%
10.00	10.00	e	0.00	0.0%
50.00	50.00	e	0.00	0.0%
90.00	90.00	e	0.00	0.0%
30.00	30.00	e	0.00	0.0%
50.00	50.00	e	0.00	0.0%
40.00	40.00	e	0.00	0.0%
10.00	10.00	e	0.00	0.0%
10.00	10.00	e	0.00	0.0%
154,000	155,000		1,000	0.6%
100.00	100.00	e	0	0.0%
190.00	190.00	e	0	0.0%
315.00	315.00	e	0	0.0%
450.00	450.00	e	0	0.0%
635.00	635.00	e	0	0.0%
70.00	70.00	e	0	0.0%
180.00	180.00	e	0	0.0%
295.00	295.00	e	0	0.0%
320.00	320.00	e	0	0.0%
350.00	350.00	e	0	0.0%
89.00	89.00	e	0	0.0%
23.00	23.00	e	0	0.0%
37.00	37.00	e	0	0.0%
21.00	21.00	e	0	0.0%
10.50	10.50	e	0	0.0%
315.00	315.00	e	0	0.0%

- 70 Notice of change of name or address
- 71 Application to vary a licence to specify individual as Designated Premises Supervisor
- 72 Application for transfer of Premises Licence
- 73 Interim authority notice following death etc. of licence holder
- 74 Theft, loss etc. of certificate or summary
- 75 Notification of change of name or alteration of rules of club
- 76 Change of relevant registered address of club
- 77 Theft, loss etc. of Temporary Event Notice
- 78 Theft, loss etc. of Personal Licence
- 79 Duty to notify of change of name or address
- 80 Right of freeholder etc. to be notified of licensing matters

81 Premises Licenses Additional Fees

82 **Total Estimated Annual Income (Licensing Act 2003)**

83 **LICENSING**

- 84 Acupuncture, tattooing ear piercing and electrolysis
- 85 Zoo Licensing Act 1981
- 86 Animal Boarding Establishments Act 1963
- 87 Animal Boarding Home
- 88 Animal Boarding Home
- 89 Animal Boarding Home
- 90 Pet Animals Act 1951
- 91 Guard Dogs Act 1975
- 92 Breeding of Dogs Act 1973
- 93 Dangerous Wild Animals Act 1976
- 94 Riding Establishments Act 1964
- 95 Re-inspection fee
- 96 Application for a boat hire licence
- 97 Application to change a boat hire licence
- 98 Application to certify a regulated stand at a sports ground
- 99 Application to change a safety certificate for a regulated stand at a sports ground
- 100 Application for a sports ground safety certificate
- 101 Application to change a safety certificate for a sports ground

102 **Total Estimated Annual Income (Other Licensing)**

ANIMAL WELFARE

- 103 Animal Welfare Regs 2018 Dog Day Care
- 104 Animal Welfare Regs 2018 Sale of animals

Where the number of people that the applicant allows on the premises at any one time is 5,000 or more an additional fee will be

2018/2019	2019/2020		Increase	Increase
Current	Proposed			
charge	charge			
10.50	10.50	e	0	0.0%
23.00	23.00	e	0	0.0%
23.00	23.00	e	0	0.0%
23.00	23.00	e	0	0.0%
10.50	10.50	e	0	0.0%
10.50	10.50	e	0	0.0%
10.50	10.50	e	0	0.0%
10.50	10.50	e	0	0.0%
10.50	10.50	e	0	0.0%
21.00	21.00	e	0	0.0%
79,800	82,000		2,200	
140.00	140.00	e	0.00	0.0%
Vet Fee + 590.00	590.00	e	0.00	0.0%
180.00	Repealed	e	Repealed	Repealed
combined kennels & cattery 310.00	Repealed	e	Repealed	Repealed
day creche or home boarding 145.00	Repealed	e	Repealed	Repealed
day creche & home boarding 225.00	Repealed	e	Repealed	Repealed
145.00	Repealed	e	Repealed	Repealed
145.00	145.00	e	0.00	0.0%
145.00	Repealed	e	Repealed	Repealed
Vet fee + 180.00	180.00	e	0.00	0.0%
Vet fee + 180.00	Repealed	e	Repealed	Repealed
60.00	Repealed	e	Repealed	Repealed
85.00	85.00	e	0.00	0.0%
85.00	85.00	e	0.00	0.0%
officer time	officer time	e	officer time	n/a
officer time	officer time	e	officer time	n/a
officer time	officer time	e	officer time	n/a
officer time	officer time	e	officer time	n/a
6,400	4,000		-2,400	
New	225.00	e	New	New
New	250.00	e	New	New

Lewes District Council Licensing Fees and Charges Proposals 2019/2020

Appendix 1

105	Animal Welfare Regs 2018 Breeding Dogs	Vet Fee + 1st inspection only
106	Animal Welfare Regs 2018 Cat and Dog Home Boarding	
106	Animal Welfare Regs 2018 Horses (upto 10)	Vet Fee +
107	Animal Welfare Regs 2018 Horses (between 11 and 20)	Vet Fee +
108	Animal Welfare Regs 2018 Horses (More than 20)	Vet Fee +
109	Animal Welfare Regs 2018 Keeping or training animals	
110	Animal Welfare Regs 2018 Dog Day Care ADDITIONAL ACTIVITY	
111	Animal Welfare Regs 2018 Sale of animals ADDITIONAL ACTIVITY	
112	Animal Welfare Regs 2018 Breeding Dogs ADDITIONAL ACTIVITY	
113	Animal Welfare Regs 2018 Cat and Dog Home Boarding ADDITIONAL ACTIVITY	
114	Animal Welfare Regs 2018 Horses (upto 10) ADDITIONAL ACTIVITY	
115	Animal Welfare Regs 2018 Horses (between 11 and 20) ADDITIONAL ACTIVITY	
116	Animal Welfare Regs 2018 Horses (More than 20) ADDITIONAL ACTIVITY	
117	Animal Welfare Regs 2018 Keeping or training animals ADDITIONAL ACTIVITY	
118	Animal Welfare Regs 2018 Dog Day Care PLV	
119	Animal Welfare Regs 2018 Sale of animals PLV	
120	Animal Welfare Regs 2018 Breeding Dogs PLV	
121	Animal Welfare Regs 2018 Cat and Dog Home Boarding PLV	
122	Animal Welfare Regs 2018 Horses (upto 10) PLV	
123	Animal Welfare Regs 2018 Horses (between 11 and 20) PLV	
124	Animal Welfare Regs 2018 Horses (More than 20) PLV	
125	Animal Welfare Regs 2018 Keeping or training animals PLV	
126	Animal Welfare Regs 2018 Dog Day Care RESCORE	
127	Animal Welfare Regs 2018 Sale of animals RESCORE	
128	Animal Welfare Regs 2018 Breeding Dogs RESCORE	
129	Animal Welfare Regs 2018 Cat and Dog Home Boarding RESCORE	
130	Animal Welfare Regs 2018 Horses (upto 10) RESCORE	
131	Animal Welfare Regs 2018 Horses (between 11 and 20) RESCORE	
132	Animal Welfare Regs 2018 Horses (More than 20) RESCORE	
133	Animal Welfare Regs 2018 Keeping or training animals RESCORE	
134	Animal Welfare Regs 2018 Dog Day Care APPEAL	
135	Animal Welfare Regs 2018 Sale of animals APPEAL	
136	Animal Welfare Regs 2018 Breeding Dogs APPEAL	
137	Animal Welfare Regs 2018 Cat and Dog Home Boarding APPEAL	
138	Animal Welfare Regs 2018 Horses (upto 10) APPEAL	
139	Animal Welfare Regs 2018 Horses (between 11 and 20) APPEAL	
140	Animal Welfare Regs 2018 Horses (More than 20) APPEAL	
141	Animal Welfare Regs 2018 Keeping or training animals APPEAL	
142	Total Estimated Annual Income (Animal Welfare Licensing)	

2018/2019	2019/2020			
Current	Proposed		Increase	Increase
charge	charge			
New	250.00	e	New	New
New	225.00	e	New	New
New	225.00	e	New	New
New	316.00	e	New	New
New	415.00	e	New	New
New	145.00	e	New	New
New	69.00	e	New	New
New	91.00	e	New	New
New	101.00	e	New	New
New	59.00	e	New	New
New	107.00	e	New	New
New	123.00	e	New	New
New	251.00	e	New	New
New	46.00	e	New	New
New	138.00	e	New	New
New	144.00	e	New	New
New	156.00	e	New	New
New	113.00	e	New	New
New	162.00	e	New	New
New	177.00	e	New	New
New	305.00	e	New	New
New	145.00	e	New	New
New	115.00	e	New	New
New	101.00	e	New	New
New	111.00	e	New	New
New	90.00	e	New	New
New	117.00	e	New	New
New	133	e	New	New
New	261	e	New	New
New	-	e	New	New
New	82.00	e	New	New
New	71.00	e	New	New
New	82.00	e	New	New
New	60.00	e	New	New
New	87.00	e	New	New
New	103.00	e	New	New
New	231.00	e	New	New
New	-	e	New	New
6,200	10,000		3,800	

Lewes District Council Licensing Fees and Charges Proposals 2019/2020

- 192 Transfer of site license
- 193 Band A 2-5 units
- 194 Band B 6-24 units
- 195 Band C 25-99 units
- 196 Band D 100+ units
- 197 Band E single unit at family site

- 198 Variation of site license
- 199 Band A 2-5 units
- 200 Band B 6-24 units
- 201 Band C 25-99 units
- 202 Band D 100+ units
- 203 Band E single unit at family site

- 204 Annual Fee
- 205 Band A
- 206 Band B
- 207 Band C
- 208 Band D
- 209 Band E
- 210 Deposit of park rules with LA (not applicable to single unit)

- 211 **Total Estimated Annual Income (Mobile Homes Act 2013)**

Appendix 1

2018/2019	2019/2020			
Current	Proposed			
charge	charge		Increase	Increase
69.00	69.00	e	0.00	0.0%
69.00	69.00	e	0.00	0.0%
69.00	69.00	e	0.00	0.0%
69.00	69.00	e	0.00	0.0%
25.00	25.00	e	0.00	0.0%
104.00	104.00	e	0.00	0.0%
104.00	104.00	e	0.00	0.0%
104.00	104.00	e	0.00	0.0%
104.00	104.00	e	0.00	0.0%
50.00	50.00	e	0.00	0.0%
117.00	117.00	e	0.00	0.0%
139.00	139.00	e	0.00	0.0%
172.00	172.00	e	0.00	0.0%
211.00	211.00	e	0.00	0.0%
exempt	exempt	e		
		e	0.00	
1,000	1,000		0	

Lewes District Council Licensing Fees and Charges Proposals 2019/2020

Appendix 1

212 **Gambling Act 2003**

213 *Lotteries (Statutory Fee)*

214

Initial
Renewal

215 *Gaming Machines (Licensed Premises - Licensing Act 2003)*

216 Notify Licensing Authority of intention to provide a maximum of 2 gaming machines - category C and/or D

217 New licensed premises gaming permit

218 Vary an existing licensed premises gaming permit

219 Transfer an existing licensed premises gaming permit

220 Annual Fee (Permits over 2 machines)

Statutory Fees

221 *Bingo Premises Licence*

222 Annual Fee

223 Application to vary a licence

224 Application to transfer a licence

225 Application for reinstatement of a licence

226 Application for provisional statement

227 Application for a new premises licence

228 Application for a new premises licence (Provisional Statement Holder)

Statutory Fees

229 *Adult gaming centre premises licence*

230 Annual Fee

231 Application to vary a licence

232 Application to transfer a licence

233 Application for reinstatement of a licence

234 Application for provisional statement

235 Application for a new premises licence

236 Application for a new premises licence (Provisional Statement Holder)

Statutory Fees

237 *Club Gaming/Machine Permit*

238 Application for a new permit

239 Application for a permit (Club Premises Certificate Holder)

240 Application for a permit (Existing Operator)

241 Application to vary a permit

242 Renewal

243 Renewal (Club Premises Certificate Holder)

244 Annual Fee

245 Copy of Permit

Statutory Fees

246 *Betting premises (Track licence)*

247 Annual Fee

248 Application to vary a licence

249 Application to transfer a licence

250 Application for reinstatement of a licence

251 Application for provisional statement

252 Application for a new premises licence

253 Application for a new premises licence (Provisional Statement Holder)

Statutory Fees

254 *Betting premises (other) licence*

255 Annual Fee

256 Application to vary a licence

257 Application to transfer a licence

258 Application for reinstatement of a licence

259 Application for provisional statement

260 Application for a new premises licence

261 Application for a new premises licence (Provisional Statement Holder)

Statutory Fees

2018/2019	2019/2020			
Current charge	Proposed charge		Increase	Increase
40.00	40.00	e	0.00	0.0%
20.00	20.00	e	0.00	0.0%
50.00	50.00	e	0.00	0.0%
150.00	150.00	e	0.00	0.0%
100.00	100.00	e	0.00	0.0%
25.00	25.00	e	0.00	0.0%
50.00	50.00	e	0.00	0.0%
800.00	800.00	e	0.00	0.0%
1,500.00	1,500.00	e	0.00	0.0%
1,000.00	1,000.00	e	0.00	0.0%
1,000.00	1,000.00	e	0.00	0.0%
2,700.00	2,700.00	e	0.00	0.0%
2,700.00	2,700.00	e	0.00	0.0%
1,000.00	1,000.00	e	0.00	0.0%
800.00	800.00	e	0.00	0.0%
800.00	800.00	e	0.00	0.0%
1,000.00	1,000.00	e	0.00	0.0%
1,000.00	1,000.00	e	0.00	0.0%
1,500.00	1,500.00	e	0.00	0.0%
1,500.00	1,500.00	e	0.00	0.0%
1,500.00	1,500.00	e	0.00	0.0%
200.00	200.00	e	0.00	0.0%
100.00	100.00	e	0.00	0.0%
100.00	100.00	e	0.00	0.0%
100.00	100.00	e	0.00	0.0%
200.00	200.00	e	0.00	0.0%
100.00	100.00	e	0.00	0.0%
50.00	50.00	e	0.00	0.0%
15.00	15.00	e	0.00	0.0%
800.00	800.00	e	0.00	0.0%
1,000.00	1,000.00	e	0.00	0.0%
800.00	800.00	e	0.00	0.0%
800.00	800.00	e	0.00	0.0%
2,000.00	2,000.00	e	0.00	0.0%
2,000.00	2,000.00	e	0.00	0.0%
800.00	800.00	e	0.00	0.0%
500.00	500.00	e	0.00	0.0%
1,200.00	1,200.00	e	0.00	0.0%
1,000.00	1,000.00	e	0.00	0.0%
1,000.00	1,000.00	e	0.00	0.0%
2,300.00	2,300.00	e	0.00	0.0%
2,300.00	2,300.00	e	0.00	0.0%
1,000.00	1,000.00	e	0.00	0.0%

262 *Temporary use notice*

263 *Family entertainment centre premises licence*

264 Annual Fee

265 Application to vary a licence

266 Application to transfer a licence

267 Application for reinstatement of a licence

268 Application for provisional statement

269 Application for a new premises licence

270 Application for a new premises licence (Provisional Statement Holder)

271 *Family Entertainment Centre Gaming Machine Permit*

272 Application for a new permit

273 Renewal

274 Application to Substitute name

275 Copy of permit

276 **Total Estimated Annual Income (Gambling Act 2003)**

277 Stage Hypnotism

278 Sex Establishments

279

280

281 **TOTAL ESTIMATED ANNUAL INCOME FOR ALL LICENSING SERVICES**

Statutory Fees

Statutory Fees

Initial Grant of Licence

Annual Renewal

Variation

2018/2019 Current charge	2019/2020 Proposed charge		Increase	Increase
250.00	250.00	e	0.00	0.0%
600.00	600.00	e	0.00	0.0%
800.00	800.00	e	0.00	0.0%
800.00	800.00	e	0.00	0.0%
800.00	800.00	e	0.00	0.0%
1,500.00	1,500.00	e	0.00	0.0%
1,500.00	1,500.00	e	0.00	0.0%
800.00	800.00	e	0.00	0.0%
300.00	300.00	e	0.00	0.0%
300.00	300.00	e	0.00	0.0%
25.00	25.00	e	0.00	0.0%
15.00	15.00	e	0.00	0.0%
2,000	5,000		3,000	
65.00	65.00	e	0.00	0.0%
3,250.00	3,250.00	e	0.00	0.0%
1,750.00	1,750.00	e	0.00	0.0%
1,750.00	1,750.00	e	0.00	0.0%
-	-			
258,500	266,000		7,500	

Licensing Income analysis

	2015/16		2016/17		2017/18		2018/19		2019/20	
	April-Dec	Actual	April-Dec	Actual	April-Dec	Actual	April-Dec	Budget	Estimate	
Markets	-8,458	-9,123	-6,756	-9,242	-4,952	-5,407	-1,630	-6,100	-6,000	Budget reduction in line with recent past year actuals
Licences re Gambling Act 2005	-1,010	-1,550	-4,510	-5,880	-880	-5,020	-3,955	-2,000	-5,000	Budget increase to reflect past year actuals
Taxi Licencing - licences	-99,626	-127,432	-106,470	-139,719	-101,442	-160,970	-126,639	-150,000	-150,000	
Taxi Licencing - other fees	-7,744	-12,747	-6,095	-9,415	-8,779	-11,375	-25,634	-5,000	-5,000	
Taxi Licencing - refunds	1,386	1,827	1,007	1,218	3,626	3,656	0	1,000	0	Refunds now deducted from income
	-105,984	-138,352	-111,558	-147,916	-106,595	-168,689	-152,273	-154,000	-155,000	
Animal Welfare Licencing	-5,425	-7,831	-6,032	-8,304	-2,843	-10,678	-2,090	-6,200	-10,000	Budget increase to reflect impact of new Animal Welfare Regulations 2018
Environmental Health Licences	-667	-772	-2,439	-3,509	-3,542	-3,889	-3,624	-6,400	-4,000	Budget reduction in line with past year actuals
Licensing Act 2003	-71,063	-81,104	-71,668	-82,041	-81,898	-88,773	-74,292	-79,800	-82,000	Budget increase to reflect past year actuals
Total Licensing Income		-238,732		-256,892		-282,456		-254,500	-262,000	

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Licensing cost recovery accounts

	Consent Streets	Scrap Metal	Taxi	Gambling Act 2005	Caravan & HMO	Environmental Health	Animal Welfare
Actual (Surplus) or Deficit at 1 April 2017	4,893	1,631	-40,535	2,126	2,602	14,741	10,676
2017/18 actual financial performance	7,197	2,399	-28,322	1,990	1,259	8,264	2,411
2018/19 estimated financial performance	6,000	2,000	-20,000	1,000	2,000	10,000	2,000
Estimated (Surplus) or Deficit at 1 April 2019	18,090	6,030	-88,857	5,116	5,861	33,005	15,087

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Report to: Licensing Committee

Date: 14 February 2019

Title: Taxi Licensing Guidance Review

Report of: Director of Service Delivery

Ward(s): All

Purpose of report: To consider and approve reviewed Taxi Licensing guidance

Officer recommendation(s): (1) That the Licensing Committee consider the reviewed Taxi Licensing Guidance and agree new Guidance

Reasons for recommendations:

- 1) The current Lewes District Council Hackney Carriage and Private Hire Licensing Guidance has become outdated.
- 2) To enable the Licensing Committee to review the proposed changes and to consider and approve changes as identified by public consultation.

Contact Officer(s): Name: Stewart Bryant
Post title: SSA Licensing and Pollution
E-mail: stewart.bryant@lewes-eastbourne.gov.uk
Telephone number: 01323 415119

1 Introduction

- 1.1 The current Lewes District Council Hackney Carriage and Private Hire Licensing Guidance has been in place for a number of years and it is appropriate that it is reviewed from time to time.
- 1.2 The consultation was opened to the public as well as the Taxi trade and we have received detailed responses from the trade and other interested parties.
- 1.3 The responses from the consultation and detailed responses from the GMB, City Cabs, and the UBER are available within Appendix B

2 Background

- 2.1 The existing Lewes District Council Hackney Carriage and Private Hire Licensing Guidance has been suitable and appropriate for a predominantly rural authority for a number of years. However the current landscape for hackney carriage and private hire licensing has changed significantly over recent years

with smart phone apps changing the way vehicles can be booked, the change in the law allowing cross border sub- contracting of jobs and sexual exploitation incidents involving the taxi trade in other parts of the country.

2.2 It is appropriate that the current guidance is reviewed in light of these issues and and brought up to date to ensure we protect the safety and welfare of the public.

3 Notable changes to existing guidance

3.1 The draft Guidance proposes to achieve four broad objectives. These are:-

- i. Ensure the safety and welfare of the public which is the overriding objective,
- ii. Encourage environmental sustainability,
- iii. Ensure an efficient and effective hackney carriage and private hire provision,
- iv. Monitor and improve standards of service in the trade

3.2 Minor amendments to this Guidance may be made by the Functional Lead - Quality Environment in consultation with the Chair of the Licensing Committee. Significant changes shall still be brought before the Licensing Committee.

3.3 The introduction of Intended Use (Hackney Carriages only). It is believed that some drivers who have applied for a licence recently may not be predominantly working within the district. In order that the Council may retain local control over the hackney carriages it licenses, applicants will be asked as part of the application and renewal process which area they intend to entirely or predominantly operate from for the purposes of fulfilling pre-booked hiring's. It will be incumbent upon the applicant to demonstrate to the Council's satisfaction that they intend to ply for hire predominantly within the District.

3.4 The current guidance allow vehicles to be up to 7 years old on first application, this Guidance changes to 5 years in recognition of environmental concerns.

3.5 Mandatory CCTV is a change to the current Guidance. The Council as a whole has become increasingly aware of the issues surrounding child sexual exploitation and has duties for safe guarding of children and vulnerable adults. The installation of CCTV will promote public safety but also importantly protect the livelihoods of drivers against false accusations. The installation of CCTV can reduce insurance premiums and this should pay for itself through reduced insurance premiums.

3.6 Any person found cheating on knowledge tests will be disqualified from the test and will not be granted a licence for at least three years. This is a change as current Guidance is one year which is considered to be too lenient.

3.7 Drivers will, under the new Guidance be required to attend training sessions on Disability Awareness and Child Sexual Exploitation and Safeguarding. Applicants will be required to pass the training before a licence can be issued.

3.8 Licensed drivers will be required to have a medical assessment at least every

five years from the ages of 45 to 65 and after the age of 65 to provide an annual medical assessment. The Council may also require a driver to provide more frequent checks if in the opinion of a medical practitioner that is necessary. The medical examination must be from a medical practitioner who has accessed the applicant's medical records for at least the last two years.

- 3.9 Legislative changes in relation to the Right to Work are added as Appendix 4 of the proposed Guidance
- 3.10 Guidance on the relevance of Convictions is stronger to reflect the Institute of Licensing Guidance 2018 on determining the suitability of applicants and licensees.

4 Key findings

- 4.1 We received 142 responses to our online survey forming part of the consultation, this included substantial responses from the GMB, City Cabs and UBER which are contained in their entirety in Appendix B.
- 4.2 85% of respondents stated that they live or work in Lewes district.
- 4.3 There was a high level of support for the four objectives set out in the guidance, with over 90% of respondents agreeing or strongly agreeing with all four objectives.
- 4.4 82.83% of respondents strongly agreed that drivers with a Lewes district licence should mainly work in the district, not elsewhere.
- 4.5 3.52% Respondents felt there should be more availability of wheelchair accessible vehicles. This was observed as general comments not directly relating to any direct question posed.
- 4.6 82% of respondents agreed or strongly agreed that a Hackney Carriage vehicle licensed by one local authority could be used to fulfil bookings on behalf of Private Hire operators licensed by another local authority.
- 4.7 66% of respondents agreed that the maximum age for a newly licensed vehicle should be 5 years, while 28% disagreed or strongly disagreed with this. 18 respondents stated that age should not be a factor.
- 4.8 74% of respondents agreed that CCTV should be mandatory in vehicles, while 21% disagreed. 6 Respondents stated they feel Lewes District Council should pay the cost of fitting this CCTV.
- 4.9 There was mixed support for the proposal to lower the requirement for vehicles to 1000cc to improve air quality with 43% agreeing, 37% disagreeing and 21% unsure.
- 4.10 73% of respondents felt that a specification list for vehicles would be useful.
- 4.11 64% of respondents agreed with that Lewes District Council should adopt a

livery standard for Hackney Carriage vehicles while 27% did not.

- 4.12 90% of respondents thought that Hackney Carriage vehicles should be of a standard colour.

The most popular suggestions for colour were:

- White (16 suggestions)
- Green (15 suggestions)
- Yellow(12 suggestions)
- Blue (11 suggestions)

- 4.13 90% of respondents thought the council should adopt the use of door signs for all Hackney Carriage and Private Hire vehicles.

- 4.14 A detailed analysis of the findings is available in Appendix B attached to this report.

5 Revisions for consideration by the Licensing Committee following consultation

- 5.1. Condition change – if executive vehicle undertake regular private hire work they are required to display an external plate.

- 5.2 Equalities, disability awareness, CSE and safeguarding to be introduced as a section on the Knowledge test or by separate certification.

- 5.3 Council should adopt emissions limits rather than cubic capacity of the vehicle such as Euro 4 Petrol and Euro 6 Diesel, as opposed to a minimum CC.

- 5.4 Vehicles to be permitted up to 5 or 8 years old from first registration upon first application.

- 5.5 Guidance must stipulate Level 2 medical for drivers.

- 5.6 A vehicle specification list be adopted into the guidance.

- 5.7 Introduce a single livery colour for Hackney carriages (white is the highest voted colour as identified by the consultation). All PHV to be non-white in colour (on renewal/replacement of vehicle).

- 5.8 Introduction of door signage in corporate colour.

- 5.9 The use of contracted garages to undertake vehicle inspections.

- 5.10 Whilst the majority of those consulted agreed with mandatory CCTV within vehicles there are implications for the Council who would be the data controller. The report writer notes that the DfT and Surveillance Commissioner are not generally in favour of mandatory CCTV. In addition there should be a clear evidence base for their implementation. If the Members wish in principle to adopt Mandatory CCTV's within vehicles then the

Senior Specialist Adviser in conjunction with the Data Protection Officer should be delegated to undertake a Data Protection Impact Assessment which involves an investigation of all the data protection issues that may arise by having mandatory CCTV. Following the Impact Assessment this part of the Guidance may need to be revised as a result of those findings and reference made to a more comprehensive document.

- 5.11 Following discussion within the Licensing team during the consultation period, it became apparent that there was a need to reduce the administrative burden placed upon the case work team to administer the Taxi licensing regime. As a result of these communities of practice meetings the following two proposals for adoption were made, which officers would like introduced within the new Guidance as had not previously formed part of the consultation
- 5.12 Introduction of mandatory dual licenses to align to EBC, (delay for 12-18 months as introduction would cause additional pressure.
- 5.13 Following the end of the consultation period a practical issue has arisen concerning the duration of drivers licences. The draft Guidance suggested “The Council will licence drivers for a maximum of 3 years from the date of the licence but also offers applicants the choice of an annual licence under exceptional circumstances. It is advised that the Council shall issue 3 year drivers licences as standard with the provision to issue 1 year licences in exceptional circumstances

6 Proposed Way Forward

- 6.1 The Committee review the recommendations from the public consultation - Lewes District Council Hackney Carriage and Private Hire Licensing Guidance Appendix A as proposed in Appendix B

7 Financial appraisal

- 7.1 There are no significant costs identified within this report.

8 Legal implication

- 8.1 There is no statutory requirement for the licencing authority to adopt any Guidance in relation to hackney carriages or private hire licences but it is considered best practice to do so as it informs and guides decision makers and assist with consistent decision making. However any Guidance is not a fetter on decision making as each case must be judged on its own merits.
- 8.2 This Report was considered by the Legal Section on 5 February 2019 (IKEN-8000-MW).

9 Risk management implications

- 9.1 It is important that these changes are considered to ensure the safety of the public.

10 Appendices

- Appendix A – Proposed Lewes District Council Hackney Carriage and Private Hire Licensing Guidance
- Appendix B – Analysis of Public consultation (including responses from the trade)

11 Background papers

None

Logo

Lewes District Council Hackney Carriage and Private Hire Licensing Guidance

Effective Date:

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Appendices

Appendix 1: Private Hire, Hackney and Specialist Vehicle Licence Conditions

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Appendix 5: Private Hire Drivers Licence Conditions

Appendix 6: Hackney Carriage Byelaws

Part One: Introduction

This licensing Guidance is written pursuant to the powers conferred by the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, as amended which place on Lewes District Council (“the Council”) the duty to carry out its licensing functions in respect of hackney carriage and private hire vehicles. In addition the Council will have due regard to all other relevant legislation and guidance in its decision making process. The Council has responsibility for the licensing of vehicles, drivers and operators within the district of Lewes and in exercising its discretion the Council will have regard to this Guidance.

The Council recognises the important role that hackney carriage and private hire vehicles play as part of an integrated transport system as they provide essential services particularly in those situations where public transport is either not available, for example in rural areas, and for those individuals with mobility difficulties.

In setting out this Guidance the Council seeks to;

- a. Ensure the safety and welfare of the public which is the overriding objective,
- b. Encourage environmental sustainability,
- c. Ensure an efficient and effective hackney carriage and private hire provision,
- d. Monitor and improve standards of service in the trade

Notwithstanding the existence of this Guidance, each application or enforcement measure will be considered on its own merits. Where it is necessary for the Council to substantially depart from this Guidance, in exceptional circumstances, reasons will be given for doing so.

This Guidance will take effect *from xxx* and will be kept under review and amended as and when necessary to reflect changes in legislation, case law, statutory guidance and best practice.

Minor amendments to this Guidance required for example by virtue of legislative change or administrative procedural change may be made by the Functional Lead - Quality Environment in consultation with the Chair of the Licensing Committee.

Significant amendment to the Guidance will require a full public consultation prior to consideration by the full Licensing Committee. Significant amendment includes those that will have a significant procedural or financial impact on applicants, licence holders or the public and those which are inconsistent with the Guidance objectives.

When any revisions are made to the Guidance the Council will publish a statement of the revision on its website along with the revised Guidance.

Transitional Arrangements

The Guidance have will effect from *xxx date agreed*. With the exception of the Vehicle Licence Conditions which for new applicants for a vehicle licence will take effect from the date this Guidance becomes effective, and for existing vehicle licence holders will take effect from when they change the vehicle to which the licence applies.

In relation to the introduction of mandatory CCTV for new applicants this will take effect from the date this Guidance becomes effective and for current licence holder they must have CCTV installed within three years of the introduction of the Guidance.

Part 2: Definitions

The 1847 Act	Town Police Clauses Act 1847
The 1976 Act	The Local Government (Miscellaneous Provisions) Act 1976
Authorised Council Officer	Means an Officer of the Council authorised under the Council's Scheme of Delegation to administrate the licensing function
Best Practice Guidance	Means Best Practice Guidance on Taxi and Private Hire Vehicles Licensing issued by the Department of Transport in March 2010 as amended or as may be replaced.
Council or Licensing Authority	Means Lewes District Council in its licensing function
Driver	Refers to a hackney carriage, private hire, dual and restricted driver, unless expressly stated or the context indicates otherwise
Hackney Carriage	Means a vehicle licenced under the 1847 Act to stand or ply for hire throughout the district controlled by the Council
He/his	shall apply to female equivalent
Private Hire Operator	Means a person who in the course of business makes provision for the invitation or acceptance of bookings for private hire vehicles
Private Hire Vehicle	A motor vehicle constructed or adapted to seat fewer than nine passengers, other than a hackney carriage or public service vehicle, which is provided for hire with the services of a driver for the purpose of carrying passengers
Proprietor	Refers to owners of either hackney carriage or private hire vehicles, unless expressly stated or the context indicates otherwise and includes a part proprietor

Restricted Private Hire Driver	Only undertake school transport work in a private hire vehicle. The driver would be responsible for driving a child to and from their school and the licence does not permit the licence holder to undertake any other work.
Vehicle	Refers to a hackney carriage or private hire or specialist vehicle, unless expressly stated or the context indicates otherwise

Part 3: Vehicles

Limitation of Numbers

The Council currently has no limit on the number of hackney carriages which may be licensed within the District and has no intention of introducing one unless evidence of 'no significant unmet demand' can be provided.

No powers exist for the Council to limit the number of private hire vehicles that it may licence.

Specifications and Conditions

The Council has a wide discretion over the type of vehicle it can licence and the Best Practice Guidance suggests that local licensing authorities should adopt the principle of specifying as many different types of vehicle as possible.

The Council is empowered to impose such conditions as it considers reasonably necessary in relation to vehicles licences.

Licence conditions relevant to the type of vehicle are contained in Appendix 1.

Environmental Considerations

The Council has given careful consideration to introducing tougher emissions standards for all licenced vehicles and considers its responsibility in protecting the environment to be an important objective of the Guidance.

The Council is committed to reducing emissions through raising awareness of environmental issues with the trade and other interested parties.

However, at this time the Council considers that its requirement for all vehicles to be tested every six months means that it does not require tougher emission standards for licensed vehicles.

Maximum Age of Vehicles

Vehicles presented for first licensing shall not be more than five years old and vehicles of more than ten years old will not be relicensed, apart from in exceptional circumstances at the discretion of an Authorised Officer, but it is noted that the transitional period operates to this part of the Guidance.

Vehicle Testing

No vehicle may be used unless it has a current MOT pass certificate and a certificate of compliance following a satisfactory test both of which must be dated no earlier than one calendar month prior to the licence commencement date. Vehicles that are less than one year old will be exempt from obtaining a current MOT pass certificate but will still be required to obtain a certificate of compliance pass certificate.

All vehicles will be subject an annual MOT and six monthly compliance test. Each application for a grant or renewal of a vehicle licence must be accompanied with proof of compliance.

The licence of any vehicle which fails its testing requirement will be automatically suspended unless such time as the vehicle has been re-examined and the necessary pass certificate obtained.

In addition, the Council will undertake a programme of inspections between formal testing dates. All vehicles must be available for inspection, at any location within the District, at all times, when requested by an Authorised Officer or a Police Officer. All vehicle documentation must be produced within 24 hours, or at such time as specified, when requested by an Authorised Officer or a Police Officer. In the event of any concerns in relation to vehicle safety the vehicle will be referred for a formal assessment. Where in the opinion of an Authorised Officer the testing requirements would not be met they may agree a period of time for rectification and re-inspection or they will suspend the vehicle until such time as the re-testing requirements shall be met.

Responsibility for ensuring the vehicle is tested and licensed remains with the licence holder.

Inspections are only to be carried out by at a VOSR approved garage in the District.

Livery

The Council believes that the requirements of this Policy ensure that hackney carriages and private hire vehicles are easily distinguishable and there is no current requirement for specific vehicle livery in the District.

Change of Ownership

Any change of to the proprietor named on a vehicle licence must be notified to the Council within fourteen days of any change.

When the proprietor of a vehicle licence wishes to transfer the licence to another person, company or partnership he must notify the Council, using the prescribed application form and paying the appropriate fee, before such a change takes place.

Unauthorised Use

The proprietor shall not allow the vehicle to be driven and/or used for hire by any person who does not hold an appropriate current driver licence.

Intended Use (Hackney Carriages only)

A hackney carriage vehicle licensed by one local authority can be used to fulfil pre-booked hiring's on behalf of private hire operators licensed by another local authority. In order that the Council may retain local control over the hackney carriages it licenses,

applicants will be asked as part of the application process which area they intend to entirely or predominantly operate from for the purposes of fulfilling pre-booked hiring's. It will be incumbent upon the applicant to demonstrate to the Council's satisfaction that they intend to ply for hire predominantly within the District.

If the applicant indicates that they will not predominately work within the District the application will normally be refused.

This section is not intended to act as a restraint of trade since applicants may make applications to any local authority in which area they intend to ply for hire.

Accident Reporting

Any accident in a vehicle 'causing damage materially affecting the safety, performance or appearance of the vehicle or the comfort or convenience of passengers' must be reported to the Council as soon as reasonably practicably and in any case within 72 hours of the event.

Following any accident, as defined above, if it is the intention of the proprietor to continue licensed use the vehicle must be inspected by a VOSR approved garage in the District to determine its fitness. It is the responsibility of the licence holder to notify the Council that this requirement has been satisfied. The Council may suspend the use of the licenced vehicle until it is suitably repaired and conforms to the testing requirements.

A licensed vehicle which has suffered major accident damage or requires substantial mechanical repair may be temporarily replaced by another vehicle provided that the damage or defect has been reported to an Authorised Officer, and the replacement vehicle meets the requirements of this Guidance and is suitable to be used for hire purposes.

CCTV

The Council accepts that security of drivers and passengers is of paramount importance and CCTV can be a valuable deterrent. Under this Guidance CCTV will be a mandatory requirement in all hackney carriages and private hire vehicles with the exception of executive private hire vehicles.

For new applicants this will apply immediately following the introduction of this Guidance and for current licence holder they must have CCTV installed within three years of the introduction of the Guidance.

The installation and operation of the CCTV systems shall comply with the requirements of the Information Commissioners CCTV Code of Practice. Following the installation of any CCTV installed into the vehicle it is incumbent upon the operator, proprietor or driver to handle relevant data in an appropriate or secure manner.

The CCTV system shall comply with any legislative requirement as regards safety, technical acceptability and operational/data integrity.

The CCTV will remain at all times the property of the proprietor of the vehicle who will be responsible for the maintenance of the system and will ensure that it is checked regularly and maintained in working order at all times. If at any time the CCTV systems is not working it must be reported to an Authorised Officer within 72 hours.

The CCTV system must be capable of date, time and vehicle identification. It must be capable of capturing images during daytime and darkness of sufficient quality to enable the identification of any person travelling in the vehicle and be of such quality that it can be used for prosecution purposes, where necessary.

The positioning of the CCTV should be such that the hard disc or data card is not accessible to any passenger travelling in the vehicle. The equipment must be securely fixed such that it cannot be tampered with or damaged by any person travelling in the vehicle.

The CCTV system shall not be used to record conversations between members of the public, since that is highly intrusive, and if any system is equipped with a sound recording facility then that functionality shall be disabled.

All vehicles with a CCTV system shall display prominent notices, visible both outside and inside the vehicle, to inform passengers that a CCTV system is in operation.

An Authorised Officer or Police Officer may, on reasonable notice, examine any camera installation or any footage from the CCTV. The Council shall be permitted to access data where they have received a complaint involving the vehicle or its driver and the complaint cannot be fully investigated without access to the recording. The licence holder shall co-operate with any Police investigation where access to the CCTV footage may assist.

The CCTV system must be capable of recording and storing images for a minimum of 28 days.

Vehicle Specification

The Council's general specifications are;

Vehicles shall be fitted with a minimum of four side doors of a size to permit easy access.

The engine shall not be less than 1290cc.

The vehicle shall be designed to permit the specified number of passengers to be carried in comfort and safety. The rear seat must be at least 48 inches wide and all seats shall have a minimum width of 16 inches per person

The vehicles shall be provided with adequate luggage space for the number of passengers for which the vehicle is licensed.

Vehicles may be of the saloon, estate, hatchback or MPV type and all vehicles must be approved by the Council. Estate vehicles must be fitted with a grill or parcel shelf sufficient to prevent luggage coming into contact with passengers using rear seats.

Left hand drive vehicles will not normally be licensed, except with the agreement of an Authorised Officer.

Stretched Limousines and other specialist vehicles

Any stretched limousine capable of carrying eight passengers or less which is offered for hire will require a licence.

For the purposes of this Guidance a stretched limousine is a motor vehicle that has been lengthened by the insertion of an additional body section and modified by a coachbuilder to contain luxury facilities and fixtures that is capable to carrying up to but not exceeding 8 passengers.

The Individual Vehicles Approval Inspection regime introduced by the Vehicle and Operator Services Agency will apply to all limousine and speciality vehicles that do not meet the standard vehicle specification.

The Council recommends that anyone wishing to licence a limousine or specialist vehicle should contact the Council before purchasing a vehicle to ensure that advice is given about meeting the required standards.

Funeral and Wedding Vehicles

There is no requirement for a vehicle to be licensed when it is being used in connection with a funeral, or is being wholly or mainly used by a person carrying out the business of a Funeral Director for the purposes of funerals.

A vehicle does not need to be licensed whilst it is being used in connection with a wedding. For clarification, the exemption only applies to journeys directly relating to the wedding service itself for example transporting the bride/and or groom to the wedding service, from the service to the reception and from the service/reception to home. Transport to other locations such as the airport would be considered a licensable activity.

Ambulance and other patient transport

Ambulances defined by, 'vehicles conforming to original manufacturers specifications and equipped and used for the carriage of sick, injured or disabled people with permanent rear compartment and means of carrying passengers in a recumbent position together with an attendant seat for use by accompanying medical professionals, readily identifiable as a vehicle used for the carriage of such people by being marked ambulance on both sides', will be exempt from private hire vehicle licensing.

In addition, the Council will exempt from licensing those vehicles being used by volunteer drivers (unpaid) to take patients to and from hospital.

Courtesy Vehicles

Courtesy vehicles used for example for transporting customers to and from garages, airports, hotels and night clubs without charge but with a clear business benefit should be licensed even though there may not be a separate charge for using the vehicle. For clarification, in addition the operator and the driver should also be licenced.

Executive Private Hire Vehicles

Executive or chauffeur driven vehicles will require a licence. However, private hire vehicles will be issued with an exemption certificate if the vehicle is of a high quality both in terms of brand and condition. This include but are not limited to luxury brands such as Mercedes Benz, BMW, Jaguar, Rolls Royce, Bentley and Lexus and in addition the vehicle should have no visible defects or dents either externally or internally.

Potential applicants will need to demonstrate that the vehicle will be used exclusively for executive clients and/or special occasions. Examples of these journeys would include but

are not limited to corporate events, conferences, exhibitions and meetings, chauffeured services and school proms.

Dual Plating

The Council will not grant a vehicle licence for any vehicle already licensed by another licensing authority.

Part 4: Drivers

Licences

The Council issues the following types of drivers' licences;

- Hackney carriage
- Private Hire
- Dual Drivers – holding both a hackney and private hire drivers licence
- Restricted Private Hire

The statutory and practical criteria and qualifications for all drivers are broadly the same. Therefore this section applies equally to hackney carriage, private hire, dual and restricted private hire drivers unless otherwise stated.

Age and experience

The Guidance does not set a minimum age limit for new drivers. However, a licence will not be granted to anyone who has not held a full DVLA or equivalent driving licence, for a period of at least twelve months immediately prior to the application.

An applicant who meets the licensing requirement by virtue of an acceptable non UK driving licence must obtain a full UK driving licence within 12 months of the issuing of the driver licence. Where this requirement is not satisfied the driver's licence will be automatically suspending pending compliance. This requirement is to ensure appropriate regulation of any penalty points issued by the courts in relation to road traffic offences and is an integral part of the 'fit and proper person' test.

There is no maximum age limit for drivers but once the licence holder reaches the age of 65 they will be required to provide to the Council annual medical checks.

Driver tests

Applicants for hackney carriage, private hire or dual driver licences will be required to complete three main tests as part of the application process. Applicants for a restricted private hire driver's licence are not required to take the local area knowledge test.

1. Knowledge test

The knowledge test includes questions on local area knowledge. Hackney carriage drivers clearly need a good working knowledge of the District because hackney carriages can be hired immediately whilst private hire vehicles must be pre booked so there would be an opportunity to research the required route. Therefore, the Council's computer based knowledge test is comprised of two slightly different tests one for private hire drivers and another for hackney and dual drivers licences.

Both tests involve the applicant having local knowledge in addition to an understanding of the Guidance, the law, and the Highway Code.

Other parts of the test includes testing the knowledge and awareness of applicants in relation to customer service and English and numeracy.

Applicants are limited to three attempts at the test per application and the test must be passed within six months of receipt their application. If they fail the tests, their application will be rejected and they must wait for at least six months before reapplying.

Any person found cheating will be disqualified from the test and will not be granted a licence for at least three years.

Applicants are required to provide photographic identification on the day of the test, for example a passport, and if they fail to provide photographic ID their test will be cancelled.

The cost of test is not included in the application fee. Each test is paid for at the time of booking and the fee is non-refundable.

In addition, drivers will be required to attend training sessions on Disability Awareness and Child Sexual Exploitation and Safeguarding run by a body approved by the Council. Applicants who fail the training will be required to resit the training and pass before a licence can be issued. The costs of this training are payable by the applicant.

2. Driving Proficiency Test

New applicants are required to undertake a driving proficiency test and details of local companies who offer the test will be provided at the application stage.

3. Medical Examination

In order to promote the Council's public safety objective it is a requirement for an applicant to provide a medical assessment from a registered medical practitioner confirming their fitness to drive.

This requirement to produce a medical assessment applies to any applicant unless the applicant is the holder of a current passenger services vehicle or heavy goods vehicle licence and is able to provide proof of medical examination undertaken in the three months prior to the application being made.

A current licence holder must advise the Council forthwith if there is any deterioration in their health what may affect their driving capabilities.

Licensed driver are required to have a medical assessment at least every five years from the ages of 45 to 65 and after the age of 65 to provide an annual medical assessment. The Council may also require a driver to provide more frequent checks if in the opinion of a medical practitioner that is necessary.

The prescribed form is available from the Council. The medical examination will normally be carried out the applicant's GP, but can be from any other medical practitioner if an Authorised Officer agrees, who has accessed the applicants medical records for at least the last two years. On completion the form must be submitted to the Council.

The applicant/licence holder will be responsible for any fees incurred in obtained a medical examination.

Disclosure & Barring Service (DBS) Disclosures

A DBS check on a driver is an essential safety measure in assessing whether or not an applicant is suitable to hold a licence therefore an Enhanced Disclosure provided by the DBS is required for all applicants whether in relation to new or renewal applications.

The Rehabilitation of Offenders Act 1974 (as amended) does not apply to applicants for drivers licences therefore applicants are required to disclose all convictions etc including those that would normally be regarded as spent but only relevant 'spent' convictions will be taken into account by the Council. Further details are provided in Appendix 2 Guidelines on Relevance of Convictions etc.

Before an application will be considered the applicant must provide a current, not less than three months old, Enhanced Disclosure. The only exception would be where an applicant has registered with the DBS for the online checking service and the Council has seen the latest DBS to which the online check refers.

In the case of new applicants with less than five years residence in the UK a Certificate of Good Conduct will be required from the relevant embassy of any country where they have lived for a period of more than one year, in addition to an Enhanced Disclosure covering their time in the UK.

In the case of renewal applicants who have been out of the UK for a period of more than six months they will need to provide a Certificate of Good Conduct from the relevant embassy of that country.

All Certificates of Good Conduct must be translated into English by an accredited translator and accompanied by a declaration to that effect.

The Council is bound by the rules of confidentiality and will not disclose information obtained to any third party save as required by the law. The applicant for an Enhanced Disclosure will be sent a certificate to their home address and will need to provide the original to the Council.

The Council will also make checks with the National Anti-Fraud Network database on refusal and revocation of licences when that is available.

DVLA Licence checking

In order to ensure the Council have a driver's complete driving history the Council will check with the DVLA for all new applications and annually. The cost of these checks are borne by the applicant.

Any discrepancies between the DVLA record and the applicants driving licence will be brought to the attention of the DVLA and the Police, as appropriate.

Right to Work

In addition all applicants will be required, prior to the grant or renewal of the licence, to demonstrate their right to work in the UK and details are contained in Appendix 4.

Conditions

The Council is permitted to apply conditions to private hire licences as it may consider reasonably necessary and those are contained in Appendix 5.

The Council is not permitted to apply condition to hackney carriage drivers but instead a byelaw applies as contained in Appendix 6.

Duration

The Council will licence drivers for a maximum of three years from the date of the licence but also offers applicants the choice of an annual licence.

Part 5: Private hire operators

Any person who operates a private hire service using one or more private hire vehicles must have a private hire operator's licence. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a private hire vehicle.

An operator must ensure that every private hire vehicle has a current private hire vehicle licence and is driven by a person who holds a current private hire drivers licence. All three licences, operators, driver and vehicle must be issued by the same licensing authority.

Conditions

The Council has the power to impose such conditions on an operator's licence as it considers reasonable, necessary and proportionate. These are found at Appendix 3.

DBS Disclosures

Operators cannot be required to produce an Enhanced Disclosure therefore a Basic Disclosure and/or a Certificate of Good Conduct form, as relevant, is required. A reference covering the applicant's financial records and/or business history may also be considered appropriate in some instances.

Before an application for an operator's licence will be considered the applicant must provide a current (not less than three months old) Basic Disclosure and/or Certificate of Good Conduct. Applicants that hold a current drivers licence with the Council will be exempt from this requirement.

Public Liability Insurance

The Council may check that appropriate public liability insurance has been taken out for premises that are open to the public. Before an application for an operator's licence is made the applicant must either produce evidence that they have taken out appropriate public liability insurance for the premises to be licenced or signed a declaration that their premises are not open to the public.

Address for which may operate

The Council will specify on the licence the address from which the operator may accept bookings and dispatch vehicles. The operator must notify the Council in writing of any proposed change of address during the period of the licence. The operator may not change the operating address until such time as the change has been approved by the Council.

The Council will not grant an operator licence for an operating base that is outside the district. This is to ensure that proper regulation and compliance measures may be taken by the Council and is in no way intended to be a restraint of trade.

Sub-contracting of private hire bookings

A licensed operator may sub contract a booking to another licensed operator, whether in the same district or not. Both operators must be licensed within the area in which their operating base is located and should record details of the booking.

The initial booking must be taken within the area in which the operator is based and the sub contracted booking must be taken within the area in which the sub contracted operator is based.

Right to Work

All applicants will be required prior to the grant of the licence to demonstrate their right to work in the UK and details are contained in Appendix 4.

Licence Duration

The Council will ordinarily issue a successful applicant an operator's licence with a five year licence subject to the power to grant a licence for a year should this be appropriate in the circumstances or requested.

Part 6: Application Process

This section of the Guidance is intended to give an indication of the application process relating to all application types. The Council notes that there are no prescribed time scales for dealing with applications but it will endeavour to deal with all applications in a timely manner.

Vehicles

An application for vehicle licence will only be considered complete when all of the following components have been received,

- Prescribed application form fully completed
- Appropriate fee
- V5 registration document
- Current valid insurance certificate of cover note
- MOT certificate
- Certificate of compliance

Drivers

An application for a drivers licence will only be considered complete when all of the following components have been received;

- Prescribed application form fully completed

- Appropriate fee
- Current valid full driving licence
- Enhanced DBS disclosure and/or Certificate of Good Conduct (as appropriate)
- Knowledge test pass (new drivers only)
- Medical certificate (new applicants or those aged over 65 where applicable)
- Proof of right to work in the UK (new applicants and existing drivers where applicable)
- A passport sized, clear and easily identifiable photograph of the applicant
- Proof of identity. Applicants must submit one form of proof of address such as a utility bill (the proofs of address should not be more than three months old)
- Two character references
- DVLA mandate results
- Proof that passed the training in Disability Awareness and Child Sexual Exploitation and Safeguarding

Operators

An application for an operators licence will only be considered complete when all of the following components have been received

- Prescribed application form fully completed
- Appropriate fee
- Inspection of the operating premises by an Authorised Officer
- Proof of Public Liability Insurance (as appropriate)
- A financial or business reference
- Basic Disclosure/Certificate of Good Conduct unless already licensed as a driver with the Council.

Application form, appropriate fees and all supporting documentation should be submitted at least fourteen days prior to the expiry of the previous licence. Incomplete applications may be returned to the applicant for resubmission when complete. A licence will not be processed without all supporting documentation being received which satisfy the requirements of this Guidance.

If a licence has not been issued at the point when an existing licence expires the licence holder must cease operating until the new licence has been received.

Consideration of applications

Unsuccessful applicants will be informed of the Council's reasons for the refusal and their right of appeal against the decision to the Courts.

Part 7 – Disciplinary and Enforcement Measures

Enforcement

It is recognised that well directed enforcement activity by the Council benefits not only the public but also the responsible members of the hackney carriage and private hire vehicle trade. In order to balance the protection of public safety with the need to prevent unnecessary interference in a licence holder's business, the Council will ensure that its enforcement is reasonable, proportionate, transparent and consistent. Enforcement action will not normally constitute a punitive response to minor technical contraventions but repeated minor technical contraventions will be subject to appropriate action.

Informal Action

An Authorised Officer will deal with the majority of incidents involving potential disciplinary or enforcement action. They can take informal action to secure compliance including offering advice and giving verbal or written warnings. Informal enforcement action may be appropriate were an Authorised Officer considers;

- The act or omission is not serious enough to warrant formal actions
- It can reasonably be expected that informal action will achieve future compliance
- Confidence in the driver or operator is ordinarily high
- The consequences of non-compliance will not pose a significant risk to public safety

Whilst each incident will be considered in the light of all circumstances a relevant licence holder will normally be given a written warning by an Authorised Officer including but not limited to;

- Failure to notify the Council of a change of address within proscribed timescales
- Refusal to accept hiring without reasonable cause
- Unreasonably prolongation of journey
- Leaving a hackney carriage unattended at a rank
- Failure to produce relevant documents within proscribed timescales
- Unsatisfactory condition of vehicle, externally and internally
- Failure to provide proof of insurance when requested
- Carrying more passengers than stated on the vehicle licence
- Failure to display plate or appropriate door signs
- Failure to notify a transfer of vehicle licence with proscribed timelimits
- Failure to report an accident within prescribed timescales
- Failure to carry a fire extinguisher
- Failure to carry a first aid kit
- Failure to use authorised roof light

- Smoking in the vehicle
- Failure to have driver badge clearly displayed
- Failure to observe rank discipline
- Failure to issue receipt on request
- Driving whilst using a mobile phone

If an Authorised Officer gives two or more written warnings in a twelve month period the licence holder will be referred in the first instance to the Senior Specialist Advisor.

Serious disciplinary or enforcement matters will be immediately referred to the Senior Specialist Advisor and will include, but are not limited to;

- Unlawful plying for hire
- Providing false or misleading information on the licence application form
- Overcharging
- Any relevant conviction, caution or fixed penalty notice
- Failure to carry an assistance dog without an exemption certificate
- Failure to carry passengers in wheelchairs in a designated vehicle without an exemption certificate
- Failure to notify in writing a change in medical conditions which would impact on drivers abilities to drive
- Obstruction of an Authorised Officer or Police Officer wishing to examine the vehicle.
- Using a licensed vehicle in a dangerous condition
- Driver not holding a current DVLA licence
- Using a vehicle for which the licence has been suspended or revoked

Referrals

Whilst the day to day enforcement of licensing is a function carried out by Authorised Officers serious or repeated disciplinary matters will be referred to the Senior Specialist Advisor in the first instance and at his discretion to the Licensing Sub Committee or exceptionally to the full Licensing Committee. Therefore any reference to Senior Specialist Advisor in this part also means Licensing Committees.

The Senior Specialist Advisor will consider the impact of transgressions on the fitness of an individual to hold a licence and take appropriate action.

Enforcement and disciplinary meetings/hearings

Where the Senior Specialist Advisor is considering disciplinary and/or enforcement action against a licence holder, the licence holder will be entitled to attend a meeting with them to answer allegations and/or provide any mitigating circumstances, if they wish to do so.

Prior to attending the meeting, an Authorised Officer will provide a written report containing all the information necessary to understand the allegation(s), the relevant sections of this Policy, the options available and any other relevant information. The report will be provided to the licence holder at least five working days prior to the meeting.

Following such a meeting or when the licence holder does not require such a meeting the Senior Specialist Advisor may decide to take one or more of the following actions;

- No action
- Informal advice (verbal or written warnings)
- Require the production of driving licences or other specified documentation
- Use statutory notices (section 68 stop notices, etc.)
- Suspend a licence
- Revoke a licence
- Authorise a Fixed Penalty Notice (after consultation with the Councils Legal Section)
- Authorise a Caution (after consultation with the Council's Legal Section)
- Authorise prosecution action (after consultation with the Council's Legal Section)

Other appropriate action as deemed necessary, including any combination of the above. For example where concerns are raised of a driver's standard of driving, the driver may be required to pass an appropriate driving standard assessment at the discretion of the Council. Failure to achieve a pass within a specified period of time will result in the suspension of the driver until such time as a pass is achieved. Where necessary for public safety a driver may be suspended immediately until such time as a pass is achieved.

For clarification if the Senior Specialist Advisor passes the matter on for consideration by the Licensing Sub Committee a hearing will always be held regardless of the presence of the driver, proprietor or operator.

Suspension Vehicles

Vehicles must be kept in an efficient, safe, tidy and clean condition at all times. Compliance with the vehicle specification and conditions of this Guidance is essential and will be enforced by random vehicle inspections by the Council. Where it is found that any vehicle is not being properly maintained, a defect(s) notice will be served on the licence holder setting out the defect(s) and the required action.

Where there is a risk to public safety the further use of the vehicle will be suspended until the defects have been remedied. The suspension will not then be lifted until the vehicle has undergone a further test at a VOSR approved garage in the District, at the licence holder's expense, and the vehicle meets the requirements of this Guidance.

Drivers

The Council may exercise its discretion to suspend the operation of a driver's licence for a specified period at the discretion of the Senior Specialist Advisor.

Revocation

The Senior Specialist Advisor may revoke the licence. Ordinarily, any revocation is stayed pending the period for appeal expiring or in the case of an appeal the appeal being determined. Where necessary for public safety, the Senior Specialist Advisor may determine that a revocation takes immediate effect and is not stayed pending any appeal.

Refusal to Renew

As an alternative to revocation, the Senior Specialist Advisor may decide that the appropriate action, in a situation where the licence is shortly to expire, is to order that the

licence shall not be renewed. The Senior Specialist Advisor may suspend the existing licence for the remainder of its licence period depending on the individual merits of the case.

Section 68 (Stop) Notices

An Authorised Officer or a Police Officer may serve notice in writing for a vehicle, or the taximeter affixed to such a vehicle, to be examined at a VOSR approved garage in the District at a time specified in the notice. This notice may only be served if there are concerns as to the condition of the vehicle or the accuracy of the taximeter.

In addition the vehicle licence may be suspended until such time as the Council's testing requirements have been complied with if it is deemed necessary for public safety. The suspension notice will remain in force until an Authorised Officer has issued written confirmation that the Council's testing requirements have been met.

If an Authorised Officer is not satisfied that appropriate action has been taken to allow the suspension notice to be withdrawn within a period of two months from the date of issue the vehicle licence will be deemed automatically revoked.

Cautions and Fixed Penalty Notices

In the interests of natural justice before a Caution or FPN is administered there must be sufficient evidence of guilt to give a realistic prospect of a conviction, the offender must admit the offence and the offender must understand the significance of the Caution or the FPN and give informed consent.

Where a person declines the offer of a Caution or a FPN, it will be necessary for the Council to consider taking alternative enforcement action. Whilst this would ordinarily mean prosecution this is not inevitable.

Prosecution

The decision to prosecute is significant as it may impact on the licence holder's future employability. Generally, the circumstances that may warrant a prosecution include, but are not limited to;

- Blatant or repeated disregard for legislation and/or this Guidance, particularly where the economic benefits for the breaches are substantial
- When there has been blatant and/or reckless disregard for the safety of passengers or other road users

Complaints against Drivers

All complaints will be fully investigated and will often involving the taking of statements from the complainant, driver and any witnesses. An Authorised Officer will consider all evidence and mitigating circumstances arising from the investigation before referring the matter to the Senior Specialist Advisor, if appropriate. The outcome of any complaint will be advised to the complainant in the form of a written response.

Part 8: Equalities and Accessibility

The Council is committed to social inclusion and ensuring a wide variety of opportunities are available particularly to those with mobility difficulties.

The Council requires all proprietors, drivers and operators to be compliant with the relevant provisions of the Equality Act 2010 and any subsequent legislation.

The Council will actively encourage the licensing of sufficient accessible vehicles and will maintain a designated list of wheelchair accessible vehicles in the District which can be found on the Council's website. The Council want to ensure that passengers in wheelchairs are better informed about the accessibility of vehicles in the District and are confident of receiving any assistance they require.

Before a vehicle is placed on the designated list it must be capable of carrying a 'reference wheelchair' and more details on reference wheelchairs can be found on the Council's website.

The Council notes the duty on operators and drivers of designated wheelchair accessible vehicles to carry a passenger while in the wheelchair and not to make any additional charge for doing so. If the passenger chooses to sit in a passenger seat the driver shall carry the wheelchair and to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort. The driver will be responsible to assisting the passenger to get in and out of the vehicle and for loading the passengers luggage and/or wheelchair into and out of the vehicle.

The Council notes that the operator or driver hired by a disabled person who is accompanied by an assistance dog or by another person who wishes to be accompanied by a disabled person with an assistance dog should accept a booking, carry the assistance dog and allow it to remain with the passenger and not make an additional charge for doing so.

Drivers who, for medical reasons are unable to accept wheelchair passengers or assistance dogs are able to apply in writing to the Council for an exemption certificate. Such a certificate will only be issued on production of appropriate medical evidence. The exemption certificate, which must show the photograph of the driver, must be displayed in the vehicle at all times.

Part 9: Fares

Hackney Carriages

The Council will consider the fare scales as and when requested to do so by the trade. Before setting the fares the Council will follow the appropriate procedures detailed in the 1976 Act.

When determining the level of fares, consideration will be given to what it is reasonable to expect the travelling public to pay as well as the need to give the drivers an incentive to provide a cost-effective service at the times it is needed.

Hackney Carriage fares, set by the Council, are a maximum and can be negotiated downwards by the hirer.

The fare for any journey that starts and ends within the District cannot exceed the metered fare based on the Council's maximum fare tariff. The meter should only be started when the passenger(s) is/are in the vehicle and the journey commences. The fare for any journey that starts or ends outside of the District can be negotiated prior to the commencement of the journey without using the meter.

The maximum fares currently prescribed by the Council are set out on the Council's website. A table of authorised fares will be provided to each hackney carriage licence holder, which must then be displayed in each vehicle so that it is easily visible to all hirers.

A hackney carriage driver must, if required by the passenger, provide a written receipt for the fare paid.

Private Hire Vehicles

The fare for a journey in a private hire vehicle must be agreed with the private hire operator at the time of booking. The driver should charge no more than the fare agreed with the operator at the time of booking.

The agreement between the hirer and the operator can either be for a fixed monetary sum, or an agreement that the fare will be calculated using the meter within the vehicle. In the case of a metered fare, the starting point for engaging the meter must be agreed at the time of booking.

A private hire driver must, if requested by the passenger, provide a written receipt for the fare paid.

Part 10: Licence Fees

Fee Structure

The legislation and established case law provides that licence fees should be sufficient to cover the costs of inspecting the vehicles, providing hackney carriage stands, and administering the control and supervision of hackney carriages and private hire vehicles. In simple terms, the Council can only set fees on a reasonable cost recovery basis and cannot make a profit from licence fees when analysed over a typical three-year cycle.

The fees currently payable for the grant and renewal of hackney carriage and private hire licences are set out on the Council's website. The fee structure is reviewed annually as part of the Council's budgetary process.

The Council will consult on the fees it intends to levy through a public notice procedure.

Payment

The Council is able to accept payment by debit or credit card, cheques, or BACS payments. Cheques must be payable to Lewes District Council.

The Council is unable to accept cash payments, save for exceptional circumstances.

Refunds and Duplicate Copies

In the case of any licence where the licence holder voluntarily surrenders their licence prior to the expiry date, the Council may make a refund in respect of the whole month/s of the unexpired portion of the licence fee.

In the case of a licence that has been suspended, revoked or otherwise ends early due to disciplinary matters, no refund will be made by the Council.

Where the Council receives a request for a duplicate copy of any previously issued licence, an appropriate fee will be paid to cover the associated administrative costs.

Part 11: Appeals

Appeals against the decisions of an Authorised Officer or Licensing Members may be made to the Magistrates' Court.

Any decision notifications will include detailed information on how to appeal and the applicable time limits.

Appendix 1: Conditions Private Hire Vehicles, Hackney Carriage and Specialist Vehicles

These conditions apply to all vehicles unless expressly stated.

Maintenance of Vehicle

The vehicle and all its fitting and equipment shall at all times when the vehicle is in use or available to hire be kept in a safe and clean condition.

All relevant statutory requirements including in particular those contained in the Motor Vehicle (Construction and Use) Regulations shall be fully complied with.

All vehicles shall undergo an inspection by a VOSR approved garage within the District every six months.

Identification Plate

The plate identifying the vehicle shall at all times be securely fixed to the outside on the rear of the vehicle in a conspicuous position in such a manner as to be easily removed by an Authorised Officer or Police Officer. On written application the Council may exempt certain specialist or executive vehicles from the need to display external plates, and operator identification.

Signage and Advertising

Hackney Carriage must be fitted with an illuminated external roof mounted sign. The sign may either display the word 'Taxi', or the words 'For Hire'. The roof sign and lettering shall be of an appropriate size to enable it to be clearly identifiable to the public. The roof sign must be switched off when the vehicles has been hired and illuminated when available for hire.

Private Hire Vehicles must not carry a roof sign of any description or have any markings that give the impression that it is a hackney carriage. They must display Council approved signage on the vehicles stating that the vehicle is only able to undertake pre-booked journeys. Any signage or advertising on a private hire vehicle must not include the words 'taxi', 'cab', 'hackney carriage' or 'for hire' save for the word 'taxi' or 'cab' being part of the company name.

The proprietor shall cause to be affixed and maintained in the vehicle in a conspicuous position and in accordance with the directions of the Council any sign or notice which the Council may from time to time require.

No other signs will be permitted to be displayed anywhere on the vehicle without the written permission of an Authorised Officer.

Restricted first party advertising is allowed so long as the advertising material is limited to the metal surfaces on the front doors and the rear window, providing it does not cause an obstruction, the advertising material shall be non-reflective and nothing shall be advertised which may reasonably cause offence to any section of the community. The proprietor of any vehicle displaying an advertisement that does not comply with this condition will be required to remove the offending advertisement and until it has been removed the vehicle's licence will be suspended.

No other advertising of any description is allowed on the vehicle.

Miscellaneous

No material alteration or change in the specification, design, condition or appearance of the vehicle shall be made without the approval of the Council at any time the licence is in force.

A suitable First Aid kit shall be provided and maintained in the vehicle at all times when in use or available for hire.

A suitable Fire Extinguisher which conforms to British and European standards shall be provided and maintained in the vehicle at all times when it is in use or available for hire.

A current insurance certificate or cover note must be displayed where it can clearly be seen by passengers.

The proprietor shall notify the Council in writing of any change of his address within seven days of such change taking place.

The proprietor shall within seven days disclose to the Council in writing details of any conviction, caution, FPN, civil injunction, or Acceptable Behaviour Contract imposed on him or if the proprietor is a company or partnership on any directors, company secretary or partners.

If the proprietor permits or employs any other person to drive the vehicle then before that person commences to drive the vehicle the proprietor shall cause that driver to deliver to him their private hire drivers or hackney carriage licence.

Any accident in a vehicle causing damage materially affecting the safety, performance or appearance of the vehicle or the comfort or convenience of person carried therein must be reported as soon as practicable and in any case within 72 hours of the occurrence.

Totally blacked out windows will not be permitted however partially blacked out windows may be allowed at the discretion of an Authorised Officer.

Appendix 2: Guidance on the relevance of Convictions etc

General Principles

The over-riding consideration for the Council is the promotion of the licensing objectives detailed in this Guidance and in particular public safety. By producing clear and transparent guidelines on the relevance of convictions the Council seeks to maintain the high standard of drivers, proprietors and operators.

The guidance details the Council's stance on the relevance of convictions etc in respect of applications for the grant of new licences, the renewal of existing licences and any existing licence holder convicted etc of an offence during the period of their licence will be subject to same criteria as though they were a new applicant. Therefore in circumstances where a new applicant would have their application refused, an existing licence holder would have their licence revoked. Thus any reference to applicant also

applies to existing licence holders except where the Guidance specifically makes a distinction.

Existing licence holders should be aware that if the Council receives notification from the Police that they are being investigated for an offence that would preclude the grant of a licence their licence will be revoked with immediate effect. In the event that no charges are laid against the licence holder, the licence will ordinarily be reinstated for its original duration. In the event that the licence holder is found not guilty, the licence will ordinarily be reinstated for its original duration, save for any previous or ongoing concerns relating to the licence holder's ability to meet the 'fit and proper' test.

In those situations where a new applicant has been charged with an offence but is awaiting trial the decision of an application will be deferred until the trial has been complete or the charges withdraw. If an existing licence holder is charged the Council will decide what action to take in line with the Enforcement part of this Guidance.

If a Court has found an applicant guilty of an offence, that person cannot subsequently claim to the Council that they did not commit the offence. The applicant can, however, offer any mitigating circumstances relating to the offence that they wish the Council to consider.

For the purposes of this Guidance, the acceptance of a Caution or Fixed Penalty Notice will be treated in the same way as a conviction. Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. Any reference to a period free from conviction etc relates to the period commencing from either where a custodial sentence has been imposed from the end of the custodial period or in any other case from the date of conviction etc.

Notwithstanding the existence of this Guidance, each application will be determined on its own merits. Where it is necessary for the Council to depart substantially from this Guidance, clear and compelling reasons will be given for doing so.

Rehabilitation of Offenders Act 1974 (as amended)

Under the 1974 Act, criminal convictions can become spent after a certain period of time, and once spent, for many purposes, can be disregarded completely. The possibility of rehabilitation, and the length of time before rehabilitation occurs, depends on the sentence imposed and not the offence committed.

Despite the above general principles, the 1974 Act does not apply to applicants for drivers licences. This is because the driving of these vehicles is listed as a "regulated occupation" in relation to which questions may be asked as to the suitability of individuals to be granted a licence.

Although the 1974 Act does not prevent the Council from taking spent convictions into account, such convictions are only admissible in so far as they are relevant to the issue as to whether the applicant is a 'fit and proper person' to hold a licence.

History

The Council may take into account an applicant's history as a licence holder with this, or any other Council. It is recognised that matters which have not resulted in a criminal conviction can and will be taken into account by the Council. In considering whether or

not a person is 'fit and proper' the Council may consider such matters as the applicant's complaint history, their compliance with this Guidance, their co-operation with Authorised Officers requests and any other reasonable matters.

DVLA Penalty Points

Drivers should provide a professional service to the public and must be aware of the safety of passengers and other road users at all times. Any traffic offence shows a lack of responsibility whilst driving either in terms of vehicle maintenance or the level of driving standards.

New driver applicants

Convictions or cautions for traffic offences will not automatically preclude an applicant from obtaining a licence, however, the number, nature and frequency of such offences will be considered.

In cases of less than six unspent penalty points on an applicant's DVLA driving licence, an application will usually be granted. A licence granted under these circumstances is likely to be issued together with a written warning as to future driving standards required and detailing the likely effect of further offences.

In cases of six to nine unspent penalty points on an applicant's DVLA driving licence, an application will not be granted until at least three years has elapsed since the completion of any sentence imposed.

In cases of ten or more unspent penalty points on an applicant's DVLA driving licence, an application will be refused.

Existing drivers

In cases of six or more unspent penalty points on an existing driver DVLA driving licence the matter will be referred immediately to the Senior Specialist Advisor for consideration.

Major Traffic Offences

For the purposes of this section, major traffic offences include, but are not limited to:

- dangerous driving
- driving whilst disqualified
- failure to stop after an accident
- driving without valid insurance
- careless driving
- driving a vehicle with mechanical defectives (such as brakes, steering, tyres, etc.)

If the applicant has been convicted of one major traffic offence then a licence application will be refused until the applicant has completed a period of at least three years free from conviction.

If the applicant has been convicted of more than one major traffic offence then a licence application will be refused until the applicant has completed a period of at least seven years free from conviction.

Where the combination of offences are considered to be of increased risk to the public, a period longer than seven years free of conviction may be substituted by the Council dependant on the extent of the risk to the public.

If the applicant has been convicted of a combination of three or more offences of no valid insurance and/or driving whilst disqualified then the Council believes that person causes an unacceptable risk to public safety and a licence will be refused.

Where an applicant or existing licence holder fails to disclose motoring offences, even if they have been declared on previous applications or are spent, the Council will deal with this by way of the issuing a warning. However, if the Council determines that there was a premeditated intention to deceive, the matter will be considered as an offence of dishonesty and dealt with in accordance with that section of this Guidance.

‘Totting up’

Where an applicant has been disqualified from driving by the Courts under the “totting up” procedure, the Council will refuse an application until there has been a period of five years free of relevant convictions. If the applicant has demonstrated to the Court “exceptional hardship” and avoided a driving disqualification, applications will still be refused until there has been a period of five years free of relevant convictions. The Council believe that the risk to the public is sufficient to maintain this consistent stance.

Major Traffic Offences resulting in Death

The driving offences of causing death by dangerous driving, careless driving, driving under the influence of alcohol or drugs, or driving unlicensed, disqualified or uninsured, will be considered by the Council to be an unacceptable risk to public safety and an application will be refused.

Drunkness

Separate consideration will be given to convictions for drunkness whilst in charge of a vehicle as opposed to drunkness whilst not in charge of a vehicle due to the differing risk to the public.

In Charge of a Motor Vehicle

The Council considers driving or being in charge of a vehicle whilst under the influence of alcohol or drugs as a serious offence causing a high element of risk to the public.

A single conviction for any alcohol-related driving offence will preclude an application from being granted for a period of seven years from the restoration of the DVLA driving licence.

More than one conviction for any alcohol-related driving offence represents an unacceptable risk to the public and an application will be refused.

Not in Charge of a Motor Vehicle

An isolated conviction for drunkness not associated with driving or being in charge of a motor vehicle will not automatically preclude an application.

Where there is an isolated conviction for disorder and/or drunkenness a licence will normally be granted together with a verbal warning as to future driving standards detailing the likely effect of further offences.

More than two convictions for disorder and/or drunkenness will lead to refusal of an application until such time as a period of three years free of convictions.

Using a hand held telephone or hand held device whilst driving

Where an applicant has a conviction for using a hand held mobile phone or a hand held device whilst driving will not be granted a licence until such time as a period of five years free of conviction.

Drug Offences

The Council considers all offences related to controlled substances a serious risk to the public.

An applicant with one conviction for any Class A drug related offence, including supplying or trafficking, will be required to show a period of ten years free of convictions.

An applicant with more than one conviction for any Class A drug related offence, including supplying or trafficking, will be considered an unacceptable risk to public safety and an application will be refused.

An applicant with a conviction for any Class B drug related offence, including supplying or trafficking, will be required to show a minimum period of five years free of convictions.

An applicant with a conviction for any Class C drug related offence, including supplying or trafficking, will be required to show a period of at least three years free of convictions.

In all these circumstances the applicant may be required by the Council to undertake drug testing at their own expense to demonstrate that they are not using controlled drugs.

In all cases, where an applicant has been medically classed as an addict, an application will be precluded until such time as a period of five years has elapsed since the completion of a recognised detoxification programme.

Sexual or Indecency Offences

For the purpose of this Policy, the following offences are considered to involve a high element of risk to the public and any application will be refused;

- rape
- indecent or sexual assault
- assault by penetration
- making, distributing or possession of child pornography
- trafficking and/or preparatory offences
- sexual offences involving children or vulnerable adults
- slavery

In addition the Council will not grant a licence to any applicant who is currently on the Sex Offenders Register or any other relevant barred list.

As drivers often carry unaccompanied and/or vulnerable people, any applicant with a conviction for any other sexual or indecency offence not listed above will be refused a licence until such time as they have been free of conviction for a period of ten years.

Violent Offences

The Council considers all violence related offences as a serious risk to the public. Offences of criminal damage and public order will be treated as violent offences for the purposes of this Policy.

An application will be refused where the applicant has been convicted of a crime which resulted on the death of another person or was intended to cause the death or serious injury of another person.

Where an applicant has a conviction for an offence of violence or connected with any offence of violence including but not limited to;

- any offence involving the possession of a firearm
- any terrorism-related offence
- racially aggravated grievous bodily harm or malicious wounding
- arson
- any offence that may be categorised as domestic violence
- violent disorder or riot

will be refused unless there has been a period of ten years free of conviction.

Where an applicant has a conviction for possession of a weapon (other than a firearm) related offence a licence will not be granted until at least seven years have elapsed since conviction.

Whilst an isolated conviction for a violent offence, other than those listed above, will not normally permanently preclude an application, the Council will have grave concern for public safety if an applicant has committed multiple violent offences. An application will normally be refused in cases where an applicant has two or more separate convictions for violent offences.

Dishonesty

Drivers are expected to be persons of trust since it is comparatively easy for dishonest drivers to defraud the public. As members of the public entrust themselves to the care of licensed drivers the Council considers offences involving dishonesty a serious risk to public safety.

An applicant that has been convicted of an offence related to dishonesty will be refused a licence until such time as they have been free of convictions for seven years.

Discrimination

Where an applicant has a conviction involving discrimination in any form a licence will not be granted until they have been free of convictions for seven years.

Hackney carriage and private hire offences

Where an applicant has a conviction for an offence concerned with hackney carriage or private hire activity for example the use of a radio scanner a licence will not be granted until they have been free of convictions for five years.

Other Offences and Special Circumstances

If the applicant has declared any other offences not specifically covered by this part of the Guidance or the specific circumstances of the application justify it the application may be referred to the Senior Specialist Advisor for determination in line with the principles of this Guidance.

Mitigation and/or Exceptional Circumstances

Where the Senior Specialist Advisor is considering whether an applicant meets the 'fit and proper' person test, the applicant will be entitled to provide them with written mitigation. The applicant may be requested to attend a meeting with the Functional Lead or the applicant may request such a meeting. Prior to attending the meeting, the applicant will be provided with a written report containing all the information necessary for the Senior Specialist Advisor to make his determination. The report will be provided to the applicant at least five working days prior to the meeting.

Appendix 3: Private Hire Operators Conditions

Records

The operator shall keep a record of every booking of a private hire vehicle invited and accepted by him whether direct from the hirer or by undertaking the bookings at the request of another operator. The records shall be made available for inspection by an Authorised Officer or Police Officer upon request. The records entries must be made before the commencement of the journey and shall include;

- Date and time of the booking
- Time and date of the pickup point
- Details of the destination
- Name and contact details of the hirer
- Registration number of the vehicle
- Name of the driver allocated for the journey

All records shall be kept by the operator for a period of at least 12 months from the date of the journey.

The operators shall keep written records of the particulars of all vehicles operated by him which include the;

- Type, make, model, colour and engine size of the vehicle
- The date the vehicle was first licensed for private hire
- Vehicle registration number
- Number of seats for passengers
- Owner of the vehicle
- Valid certificate of insurance of the vehicle
- A valid Certificate of Compliance.
- A valid road fund licence
- Method of charging i.e. whether or not a meter is fitted

- Vehicle plate number.

The operator will securely retain a copy of the licences of all drivers (whether private hire or hackney carriage) engaged to work for them and make them available for inspection by an Authorised Officer or Police Officer upon request.

Display of Licence Plates

The operator shall ensure that the licence plates issued by the Council are affixed to such position as shall be approved by an Authorised Officer.

The operator shall ensure maintenance of such licence plates in clean and legible conditions and shall inform the Council immediately should it be lost or broken or become defaced.

Miscellaneous

The operator shall ensure that any staff they employ act in a civil and courteous manner at all times.

The operator shall ensure that a private hire vehicle which has been hired shall be in attendance at the appointed time and place unless delayed or prevented by sufficient cause.

The operator must not accept a booking by any person to hire a private hire vehicle unless the passenger or someone on his behalf previously requested the hiring by any means, for example telephone, email, text or personal call, to the licence holder.

The operator must not accept a request for hire (a booking) which has been communicated to them via a driver. For clarification, the operator must not accept a booking made by a driver on behalf of a potential customer where the person approached the driver in the street seeking to hire the vehicle.

The operator must ensure that none of his staff or agents tout for business on the street, touting in this contact means approaching any person in the street and asking if they want to book a vehicle.

The operator is required to undertake reasonable checks as to fitness or suitability of their employees or agents who take bookings.

The operator shall ensure that every driver engaged has obtained a private hire drivers licence obtained by the same Licensing Authority which issued the operator's licence. If any documents expire the operator must ensure that driver does not work until the documents have been submitted to the operator.

Operators may only operate from an address within the District they are licensed. Upon the grant of a licence the Council will specify the address from which the operator may operate.

The licence must be kept in the possession of the operator and must be provided when requested by an Authorised Officer or any Police Officer. In the event of loss or damage

to this licence the Council must be informed immediately so that a replacement licence can be issued. The licence must not be altered or defaced in any way.

The operator must not operate more vehicles than the maximum number specified on their licence. If the number of vehicles they operate significantly increases during the period of their licence the operator shall apply to the Council for a variation and an amended licence fee (pro rata to reflect the increase) will apply for the remainder of their licence.

The operator shall keep clean, adequately heated, ventilated and lit any premises which the operator provides and to which the public have access whether for the purpose of booking or waiting. Any waiting area provided by the operator shall have adequate seating facilities.

The operator must not refuse a booking because the person wishing to make the booking proposes that an assistance dog is to travel with them. The operator must not make an additional charge for the carriage of a passenger's assistance dog.

The operator may only trade under this licence using one of the following, his name, the company's name, the trading name or one of the names which the licence holder included on the application form or another trading name provided that the operator notified the Council at least fourteen days prior to the intended change of name.

The operator must notify the Council in writing within seven days of the event occurring;

- Any change to the licence holders personal details including home address or if a company the registered address, contact telephone number or email address
- If the licence holder is charged with any criminal offence
- Any conviction, caution or FPN given to a person or in the case of a company any director or company secretary or any partner for any criminal offence.

The operator shall ensure that all drivers have a badge issued by the Council and that the driver wears the badge which is distinctly visible at all time whilst available for hire.

The operator shall notify the Council forthwith and in writing of any complaints, concerning a contract for hire from his business he reasonably considers the Council should be aware of. Such notification must include the action taken or proposed as a result of the complaint.

Appendix 4: Right to Work

The Council is under a legal duty to ensure that driver and operator licences are only issued to applicants who have lawful immigration status and the right to work in the UK. By law, the Council cannot issue a licence to any applicant that does not satisfy this requirement.

All applicants will need to attend the Council Offices where an Authorised Officer will check their original valid documentation evidencing their right to work in the UK. The applicant must attend in person and bring evidence of their right to work in the UK. Only certain types of documentation are acceptable.

For applicants who are British Citizens

Need to provide a British passport confirming they are a British Citizen.

If they do not have a British passport they can produce any of the other documents contained within List A.

For applicants who are not British Citizens but have no restrictions on their right to work in the UK

Need to provide any of the other documents contained within List A.

For applicants who have restrictions on their right to work in the UK

Need to produce any of the documents contained within List B. If the documentation proves a right to work expires prior to the normal licence expiry date the licence will only be granted for the period the Council have proof of a right to work.

The Council will not accept a visa that confirms their right to reside in the UK but which is attached to an expired passport. The applicant will need to apply to the Home Office to obtain acceptable proof, such as a biometric residence permit. Once a valid application to the Home Office has been confirmed, a six month licence can be granted to allow time for the Home office to process the application.

An applicant must bring original documentation (not a photocopy) and it is the applicant's responsibility to make sure they can provide acceptable forms of documentation.

The Authorised Officer will check that the documentation is acceptable based on either List A or List B (depending on your circumstances), check that the document is an original and relates to the person providing it, and take a photocopy for Council's records.

If the documentation provided demonstrates that the applicant has a permanent right to work in the UK (from List A) they will not be required to produce documentation for future applications. In other cases, the applicant will be required to provide documentation when they next apply to renew their licence so their right to work can be verified again at that point in time.

List A

- (i) A passport showing the holder, or a person named in the passport as the child of the holder, is a British Citizen or a citizen of the UK and Colonies having the right of abode in the UK.
- (ii) A passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
- (iii) A Registration Certificate or Document Certifying Permanent Residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
- (iv) A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
- (v) A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
- (vi) A current passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.

(vii) A current Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

(viii) A full birth or adoption certificate issued in the UK which includes the name(s) of at least one of the holder's parents or adoptive parents, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

(ix) A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

(x) A certificate of registration or naturalisation as a British Citizen, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

List B

(i) A current passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to do the type of work in question.

(ii) A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to do the work in question.

(iii) A current Residence Card (including an Accession Residence Card or a Derivative Residence Card) issued by the Home Office to a non-European Economic Area national who is a family member of a national of a European Economic Area country or Switzerland or who has a derivative right of residence.

(iv) A current Immigration Status Document containing a photograph issued by the Home Office to the holder with a valid endorsement indicating that the named person may stay in the UK, and is allowed to do the type of work in question, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

(v) A Certificate of Application issued by the Home Office under regulation 17(3) or 18A(2) of the Immigration (European Economic Area) Regulations 2006, to a family member of a national of a European Economic Area country or Switzerland stating that the holder is permitted to take employment which is less than 6 months old together with Verification from the Home Office Evidence and Enquiry Unit.

(vi) A Verification issued by the Home Office Evidence and Enquiry Unit to you, which indicates that the named person may stay in the UK because they have an in time application, appeal or administrative review and which is outstanding.

Appendix 5: Private Hire Drivers Conditions of Licence

The driver shall behave in a civil and orderly manner and shall take reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the licensed vehicle.

The driver shall be clean and tidy in appearance at all times and dressed smartly with long or short sleeved shirt or blouse and long trousers, tailored shorts or skirts. Suitable footwear for driving must be worn.

The driver shall ensure that the vehicle is presented in a clean and tidy condition for each journey.

The driver must carry assistance dogs when required unless they have a Certificate of Exemption from the Council.

The drivers of a designated wheelchair accessible vehicle shall to carry a passenger while in the wheelchair and not to make any additional charge for doing so. If the passenger chooses to sit in a passenger seat the driver shall carry the wheelchair and to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort. The driver will be responsible to assisting the passenger to get in and out of the vehicle and for loading the passengers luggage and/or wheelchair into and out of the vehicle. The driver must ensure that any occupied wheelchair being transported in a wheelchair accessible vehicle must be safely secured using the restraint system carried in the vehicle, provided such system is compatible with the wheelchair being transported.

A driver who has agreed to be in attendance at a certain time at a specified place or whose operators has informed them must be in attendance at a certain time and place shall unless delayed or prevented by some sufficient cause must so attend.

A driver must carry in the vehicle any luggage to which the passenger requests provided that it can be properly secured with the luggage constraints.

A driver must provide reasonable assistance in loading and unloading such luggage.

A driver must provide reasonable assistance in removing any luggage to or from of an entrance of any building or place the passenger may be taken up or set down.

A driver must provide reasonable assistance to any passenger in alighting or entering the vehicle.

The driver of a vehicle equipped with a taxi meter shall set the meter into operation at the point at which the hirer commences his journey unless the hirer pre-agrees a fare.

The driver shall at all time when acting as a private hire driver wear the badge issued by the Council in such a manner to be distinctly visible. The driver shall not lend the badge to any other person or cause or permit any other person to wear it.

The driver must not allow a passenger into their vehicle unless they have first confirmed that there is a booking in place for that passenger.

Where any of the following occur the driver must notify the Council in writing so that the notification is delivered to the Council within seven days;

- Any change to the driver personal details including home address, contact telephone number or email address

- If the driver is charged with any criminal offence
- Any Cautions or FPN given for any criminal offence
- If they change from one private hire operator to another

A driver shall not at any time permit the noise from any radio or sound system in the vehicle to be a source of annoyance or nuisance to any person, whether inside or outside the vehicle. The driver must turn off their radio/stereos if requested by a passenger.

The driver shall not between the hours of 23:30 and 07:00 sound his horn to notify the hire of his presence.

The driver shall not, without the consent of the hirer, convey any other person in the vehicle other than the hirer.

The driver shall not demand for any hirer a fare in excess of any previously agreed for that hirer between the hirer and the operator or if the vehicle is fitted with a taximeter and there has been no previous agreement as to the fare the fare shown on the face of the taximeter.

A driver shall, if requested by the hirer, provide him with a written receipt for the fare paid.

A driver must supply on request his badge number or plate number to any person on request.

A driver stopped by an Authorised Officer or a Police Officer must produce their licence on demand.

The driver shall not wilfully or negligently cause or permit the vehicle licence plate to be concealed or allow the plate to be so defaced as to make any figure or information illegible.

The driver when hired to drive to a particular destination shall proceed to that destination by the shortest available route unless otherwise instructed by the hirer.

The driver must not cause or permit the vehicle to stand on a public road so as to suggest that it is plying for hire.

The driver shall not smoke in the vehicle.

The driver must not use a mobile phone whilst driving unless it is designed for hands free operation.

The driver shall not convey or permit to be conveyed any greater number of persons than the number specified on the vehicles licence.

The driver shall at all times shall carry a copy of these conditions in the vehicle and shall make them available upon request by the hire or any other passenger.

The driver must return forthwith all licence, badges and plate to the Council when the driver ceases to be licensed.

The driver must cease driving any private hire vehicle and contact the Council immediately if they know of any medical condition which may affect their driving ability or the health or safety of themselves or any passengers.

The driver shall ensure that he complies with the law and best practice in relation to seat belts in relation to children under the age of fourteen.

Appendix 6: Byelaw

LEWES DISTRICT COUNCIL

BYELAWS

Byelaws made under Section 68 of the Town Police Clauses Act 1847 and Section 171 of the Public Health Act 1875 by the Lewes District Council with respect to hackney carriages in the district of Lewes.

Interpretation

1. Throughout these byelaws "the Council" means the Lewes District Council and "the District" means the district of Lewes.

Provisions regulating the manner in which the number of each hackney carriage corresponding with the number of its licence, shall be displayed

2. (a) The proprietor of a hackney carriage shall cause the number of the licence granted to him in respect of the carriage to be legibly painted or marked on the outside and inside of the carriage, or on plates affixed thereto.

(b) A proprietor or driver of a hackney carriage shall:
 - (i) not wilfully or negligently cause or suffer any such number to be concealed from public view while the carriage is standing or plying for hire;
 - (ii) not cause or permit the carriage to stand or ply for hire with any such painting, marking or plate so defaced that any figure or material particular is illegible.

Provisions regulating how hackney carriages are to be furnished or provided

3. The proprietor of a hackney carriage shall:
 - (a) provide sufficient means by which any person in the carriage may communicate with the driver;
 - (b) cause the roof or covering to be kept watertight;

- (c) provide any necessary windows and a means of opening and closing not less than one window on each side;
 - (d) cause the seats to be properly cushioned or covered;
 - (e) cause the floor to be provided with a proper carpet, mat or other suitable covering;
 - (f) cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;
 - (g) provide means for securing luggage if the carriage is so constructed as to carry luggage;
 - (h) provide an efficient fire extinguisher which shall be carried in such a position as to be readily available for use; and
 - (i) provide at least two doors for the use of persons conveyed in such carriage and a separate means of ingress and egress for the driver.
4. The proprietor of a hackney carriage shall cause the same to be provided with a taximeter so constructed, attached, and maintained as to comply with the following requirements, that is to say:-
- (a) the taximeter shall be fitted with a key, flag, or other device the turning of which will bring the machinery of the taximeter into action and cause the word "HIRED" to appear on the face of the taximeter;
 - (b) such key, flag, or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
 - (c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for the hire of the carriage by time as well as for distance in pursuance of the tariff fixed by the Council;
 - (d) the word "FARE" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon;
 - (e) the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage, and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring; and
 - (f) the taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

Provisions regulating the conduct of the proprietors and drivers of hackney carriages plying within the district in their several employments, and determining whether such drivers shall wear any and what badges.

5. The driver of a hackney carriage provided with a taximeter shall:-
 - (a) when standing or plying for hire, keep the key, flag or other device fitted in pursuance of the byelaw in that behalf locked in the position in which no fare is recorded on the face of the taximeter;
 - (b) before beginning a journey for which a fare is charged for distance and time, bring the machinery of the taximeter into action by moving the said key, flag or other device, so that the word "HIRED" is legible on the face of the taximeter and keep the machinery of the taximeter in action until the termination of the hiring; and
 - (c) cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring which is between half an hour after sunset and half an hour before sunrise and also at any other time at the request of the hirer.

6. A proprietor or driver of a hackney carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.

7. The driver of a hackney carriage shall, when plying for hire in any street and not actually hired:-
 - (a) proceed with reasonable speed to one of the stands appointed by the Council pursuant to Section 63 of the Local Government (Miscellaneous Provisions) Act 1976;
 - (b) if a stand, at any time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;
 - (c) on arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so as to face in the same direction; and
 - (d) from time to time when any other carriage immediately in front is driven off or moved forward cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward.

8. A proprietor or driver of a hackney carriage when standing or plying for hire, shall not make use of the services of any other person for the purpose of importuning any person to hire such carriage.

9. The driver of a hackney carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.

10. The proprietor or driver of a hackney carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.
11. A proprietor or driver of a hackney carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.
12. If a badge has been provided by the Council and delivered to the driver of a hackney carriage he shall, when standing or plying for hire, and when hired, wear that badge in such position and manner as to be plainly visible.
13. The driver of a hackney carriage so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the carriage:
 - (a) convey a reasonable quantity of luggage;
 - (b) afford reasonable assistance in loading and unloading; and
 - (c) afford reasonable assistance in removing it to or from the entrance of any building, station or place at which he may take up or set down such person.

Provisions fixing the rates or fares to be paid for hackney carriages within the district, and securing the due publication of such fares.

14. The proprietor or driver of a hackney carriage shall be entitled to demand and take for the hire of the carriage the rate or fare prescribed by the Council, the rate or fare being calculated by distance and time unless the hirer express at the commencement of the hiring his desire to engage by time.

Provided always that where a hackney carriage furnished with a taximeter shall be hired by distance and time the proprietor or driver thereof shall not be entitled to demand and take a fare greater than that recorded on the face of the taximeter, save for any extra charges authorised by the Council, which it may not be possible to record on the face of the taximeter.
15. (a) The proprietor of a hackney carriage shall cause a statement of the fares fixed by council resolution to be exhibited inside the carriage, in clearly distinguishable letters and figures.

(b) The proprietor or driver of a hackney carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

Provisions securing the safe custody and redelivery of any property accidentally left in hackney carriages and fixing the charges to be made in respect thereof.

16. The proprietor or driver of a hackney carriage shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the carriage for any property which may have been accidentally left therein.
17. The proprietor or driver of a hackney carriage shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed to him:-
 - (a) carry it as soon as possible and in any event within 48 hours, if not sooner claimed by or on behalf of its owner, to a police station in the district and leave it in the custody of the officer in charge of the office on his giving a receipt for it; and
 - (b) be entitled to receive from any person to whom the property shall be re-delivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to the police station in the district, whichever be the greater) but not more than five pounds.

Penalties

18. Every person who shall offend against any of these byelaws shall be liable on summary conviction to a fine not exceeding Level 2 on the Standard Scale and in the case of a continuing offence to a further fine not exceeding two pounds for each day during which the offence continues after conviction therefor.

Repeals

19. The byelaws relating to hackney carriages which were made by the Lewes District Council on the 12 day of January 1995 and which were confirmed by the Secretary of State for Transport on the 14 day of March 1995 are hereby repealed.

GIVEN under the COMMON SEAL of LEWES DISTRICT COUNCIL this Twenty-second day of February 2001 in pursuance of a Resolution of the Council passed on the Twenty-first day of February 2001

THE COMMON SEAL of
LEWES DISTRICT COUNCIL was
hereunto affixed in the presence of:-

LS
27/01

C. F. W. Bailey
Senior Solicitor

The foregoing byelaws are hereby confirmed by the Secretary of State and shall come into force on the 11th day of April 2001

J. M. E. Rogers 28.03.01
Signed by authority of the Secretary of State

Link to Hackney Carriage Byelaw is [here](#) or can be viewed on www.lewes-eastbourne.gov.uk and search for byelaws.

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Lewes District Council Taxi Licensing Guidance consultation report

November 2018

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Background

Between 1 August and 26 September 2018 we carried out a public consultation over our updated draft 'Hackney Carriage and Private Hire Licensing guidance'. The existing guidance was introduced more than 10 years ago so a review of the guidance was carried out which took into consideration changes in legislation such as the Deregulation Act and the Equality Act, environmental assessments, safeguarding and the latest car and driver technology, such as CCTV. Comments were invited from residents, drivers, operators and other stakeholders on the draft guidance.

How we consulted

- We carried out a public consultation from 1 August and 26 September 2018.
- We published a page on the district council website which included the background to the review and the draft guidance.
- We provided an online survey for respondents to structure their feedback and made the offer of providing paper copies of this on request.
- We also offered the consultation information in different languages and formats.

- We publicised the consultation through the local media, our social media channels, via the council's website and by email to the council's consultation mailing list.

Who responded

- We received 142 responses to our online survey.
- 85% of respondents stated that they live or work in Lewes district.
- 74% of respondents were male, 26 female.
- 51% of responses were from residents.
- 27% of responses were from Hackney Carriage drivers.
- 4.5% of responses were from private hire drivers.
- 10% of responses were from dual drivers (private and Hackney Carriage).
- A response was also received from a disability organisation.
- We received three written responses from:
 - Taxi operator Andy Cheeseman
 - Uber
 - BMG, Unite and independent drivers of Brighton and Hove Authority
- All email responses have been included in their entirety in Appendix 1.

Key findings

- There was a high level of support for the four objectives set out in the guidance, with over 90% of respondents agreeing or strongly agreeing with all four objectives.
- 9 respondents commented that drivers with a Lewes district licence should mainly work in the district, not elsewhere.
- 5 Respondents felt there should be more availability of wheelchair accessible vehicles.
- 82% of respondents agreed or strongly agreed that a Hackney Carriage vehicle licensed by one local authority could be used to fulfil bookings on behalf of Private Hire operators licensed by another local authority.
- 66% of respondents agreed that the maximum age for a newly licensed vehicle should be 5 years, while 28% disagreed or strongly disagreed with this. 18 respondents stated that age should not be a factor.
- 74% of respondents agreed that CCTV should be mandatory in vehicles, while 21% disagreed. 6 Respondents stated they feel Lewes District Council should pay the cost of fitting this CCTV.
- There was mixed support for the proposal to lower the requirement for vehicles to 1000cc to improve air quality with 43% agreeing, 37% disagreeing and 21% unsure.
- 73% of respondents felt that a specification list for vehicles would be useful.
- 64% of respondents agreed with that Lewes District Council should adopt a livery standard for Hackney Carriage vehicles while 27% did not.
- 90% of respondents thought that Hackney Carriage vehicles should be of a standard colour.
- The most popular suggestions for colour were:
 - White (16 suggestions)

- Green (15 suggestions)
- Yellow(12 suggestions)
- Blue (11 suggestions)
- 90% of respondents thought Lewes district adopt the use of door signs for all Hackney Carriage and Private Hire vehicles.

Next steps

- Feedback from this consultation will be considered by officers and a revised draft of the strategy will be taken to the Lewes District Council Licensing Committee in spring 2019 for consideration.
- We will inform all respondents of the outcome of this committee.
- The council will aim to implement the new guidance from 1 April 2019.
- A copy of the final guidance will be available on our website lewes-eastbourne.gov.uk and paper copies available on request.

Survey findings

1. Please tell us in what capacity you are responding to this consultation (select one):			
		Response Percent	Response Total
1	a resident	51.11%	69
2	a Hackney Carriage driver	26.67%	36
3	a Private Hire driver	4.44%	6
4	a dual driver (Private Hire and Hackney Carriage)	9.63%	13
5	a Private Hire Operator	2.96%	4
6	a professional body	0.74%	1
7	Other (please specify):	4.44%	6
		answered	135
		skipped	7
Other (please specify): (6)			
Brighton taxi driver x 2			
Resident			
Councillor			
Disability Organisation			
Service Provider to the Taxi Trade			

2. The draft guidance proposes four broad objectives. Please tell us whether you agree or disagree with these objectives.						
	Strongly agree	Agree	Disagree	Strongly Disagree	Don't know	Response Total
To ensure the safety and welfare of the public	88.1% (118)	11.2% (15)	0.7% (1)	0.0% (0)	0.0% (0)	134
To encourage environmental sustainability	54.9% (73)	37.6% (50)	1.5% (2)	1.5% (2)	4.5% (6)	133
To ensure an efficient and effective Hackney Carriage and Private Hire provision in the district	76.1% (102)	20.9% (28)	1.5% (2)	0.7% (1)	0.7% (1)	134
To monitor and improve standards of services in the trade	76.9% (103)	20.9% (28)	0.7% (1)	0.0% (0)	1.5% (2)	134
					answered	134
					skipped	8
Comments (common themes)						Total
Drivers with a Lewes district licence should mainly work in the district, not elsewhere						9
There should be more wheelchair accessible vehicles						5
There should be greater use of electric vehicles						4
Issues identified with the Lewes town rank						2
Other comments						15

3. A Hackney Carriage vehicle licensed by one local authority can be used to fulfil bookings on behalf of Private Hire operators licensed by another local authority. In order to keep control over the Hackney Carriages it licenses, Lewes District Council proposes to ask Hackney Carriage applicants which area they intend to mainly operate in for the purposes of fulfilling pre-booked hirings. This is called 'intended use' Do you agree or disagree that this 'intended use' policy for Hackney Carriages is needed?

		Response Percent	Response Total
1	Strongly agree	59.70%	80
2	Agree	23.13%	31
3	Disagree	4.48%	6
4	Strongly Disagree	5.22%	7
5	Don't know	7.46%	10
		answered	134
		skipped	8
Comments (common themes)		Total	
Drivers with a Lewes district licence should mainly work in the district, not elsewhere		7	
An intended use policy is needed		3	
How will this be enforced?		2	
Other comments		19	

4. Do you agree or disagree that the maximum age for a newly licensed vehicle should be no more than five years?

		Response Percent	Response Total
1	Strongly agree	38.06%	51
2	Agree	28.36%	38
3	Disagree	14.18%	19
4	Strongly Disagree	14.18%	19
5	Don't know	5.22%	7
		answered	134
		skipped	8
Comments (common themes)			Total
Age of vehicle should not be a factor			18
New vehicles should be Wheelchair Accessible Vehicles			2
vehicle age should be less than 5 years			3
Other comments			5

5. Do you agree or disagree that mandatory CCTV should be required in all vehicles?

		Response Percent	Response Total
1	Strongly agree	55.97%	75
2	Agree	18.66%	25
3	Disagree	12.69%	17
4	Strongly Disagree	7.46%	10
5	Don't know	5.22%	7
		answered	134
		skipped	8
Comments (common themes)			Total
Agree with mandatory CCTV			19
LDC should fund the cost of adding CCTV to vehicles			6
Disagree with mandatory CCTV			3
Other comments			3

6. Are you supportive of lowering the requirement for the vehicles to 1000cc to improve air quality?

		Response Percent	Response Total
1	Yes	42.54%	57
2	No	36.57%	49
3	Don't know	20.90%	28
		answered	134
		skipped	8
Comments (common themes)		Total	
Disagree with 1000cc minimum		15	
Agree with the 1000cc minimum		11	
I would like to see electric vehicles or hybrid vehicles		4	
Would like more evidence to support smaller engines sizes		3	
Other comments		4	

7. Would you find it helpful if the council produced an approved vehicle specification list?

		Response Percent	Response Total
1	Yes	73.13%	98
2	No	16.42%	22
3	Don't know	10.45%	14
		answered	134
		skipped	8
Comments (common themes)		Total	
I would like to see a vehicle spec list		8	
I would like to be able to choose vehicle spec		5	
Other comments		6	

8. A livery standard is a way to identify Hackney Carriages from other vehicles by having the vehicle or certain body panels a different colour. For example in Eastbourne, Hackney Carriage taxis are white and in Brighton they are white with an aqua marine bonnet and boot. Do you think Lewes district should adopt a livery standard for Hackney Carriage vehicles?

		Response Percent	Response Total
1	Yes	64.93%	87
2	No	26.87%	36
3	Don't know	8.21%	11
		answered	134
		skipped	8
Comments (common themes)		Total	
Agree		4	
Disagree		1	
Yes, if paid for by Lewes District Council		1	

9. Do you think we should have a specific colour for Hackney Carriages?			
		Response Percent	Response Total
1	Yes	89.53%	77
2	No	4.65%	4
3	Don't know	5.81%	5
		answered	86
		skipped	56

What colour do you think this should be?	
White	16
Green	15
Yellow	12

What colour do you think this should be?			
	Blue	11	
	Red	7	
	Black	5	
	Purple	2	
	Other	4	
	No preference	3	
		answered	77
		skipped	65

10. Should Lewes district adopt the use of door signs for all Hackney Carriage and Private Hire vehicles?			
		Response Percent	Response Total
1	Yes	89.66%	78
2	No	1.15%	1
3	Don't know	9.20%	8
		answered	87
		skipped	55
Comments (common themes)			Total
It should adopt the use of door signs for all Hackney Carriage			12

Do you have any other comments to make about the draft guidance?			
		Response Percent	Response Total
1	Open-Ended Question	100.00%	55

Do you have any other comments to make about the draft guidance?			
		Response Percent	Response Total
	Drivers with a Lewes district licence should mainly work in the district, not elsewhere		10
	No comment		9
	Would like to see speeding addressed		2
	No mention as to disabled access in guidance		2
	Other comments		36

11. Do you live or work in Lewes district?			
		Response Percent	Response Total
1	Yes	85.07%	114
2	No	14.93%	20
		answered	134
		skipped	8

Equality monitoring data

14. What is your sex?			
		Response Percent	Response Total
1	Male	74.23%	72
2	Female	25.77%	25
3	Other	0.00%	0
		answered	97
		skipped	45

15. What is your age?				
			Response Percent	Response Total
1	Under 18		0.00%	0
2	18 - 24		2.06%	2
3	25 - 34		6.19%	6
4	35 - 44		7.22%	7
5	45 - 54		22.68%	22
6	55 - 64		31.96%	31
7	65 - 74		23.71%	23
8	75 +		6.19%	6
			answered	97
			skipped	45

16. What is your ethnic group? Ethnic groups are defined by the 2011 census				
			Response Percent	Response Total
1	English/Welsh/Scottish/Northern Irish/British		86.60%	84
2	Irish		2.06%	2
3	Gypsy or Irish Traveller		0.00%	0
4	Any Other White background		3.09%	3
5	White and Black Caribbean		1.03%	1
6	White and Black African		1.03%	1
7	White and Asian		0.00%	0
8	Any Other Mixed background		1.03%	1
9	Asian/Asian British		2.06%	2
10	Indian		0.00%	0
11	Pakistani		0.00%	0
12	Bangladeshi		1.03%	1
13	Chinese		0.00%	0
14	Any Other Asian background		0.00%	0
15	African		0.00%	0

16. What is your ethnic group? Ethnic groups are defined by the 2011 census				
			Response Percent	Response Total
16	Caribbean		0.00%	0
17	Any Other Black/African/Caribbean background		0.00%	0
18	Arab		1.03%	1
19	Any Other Ethnic Group (please specify):		1.03%	1
			answered	97
			skipped	45
Any Other Ethnic Group (please specify): (1)				
1	Not relevant			

17. Are your day-to-day activities limited because of a health problem or disability which has lasted, or is expected to last, at least 12 months?				
			Response Percent	Response Total
1	Yes, limited a lot		10.31%	10
2	Yes, limited a little		12.37%	12
3	No		77.32%	75
			answered	97
			skipped	45

19th September 2018

**Southern Taxis Group (South Coast Taxis) formal response to
Lewes District Council Taxis Licensing Consultation.**

Firstly, Southern Taxis welcomes all changes that can improve the safety and wellbeing of both driver and passengers. Our company has always gone beyond the minimum to facilitate this continued improvement.

We would like to offer some observation on the following.

Age limits,

We agree with the guidance of the DFT, NATPHELO and the Law commission that such conditions are onerous. We believe even more so given the recent changes to MOT law and the fact the council already has a 6-month policy on testing. It is perfectly possible for an older car to be in good condition.

Mandatory CCTV,

Most of our vehicles are already compliant with this condition and go beyond the rather weak conditions being proposed by Licensing. This is a must have, to ensure safety for both driver and passenger. However there needs to be strict conditions on data control and independent (from driver/owner) responsibility for said data as well as the equipment itself.

Approved Vehicle Specification,

If adopted, we believe that this should be again in line with best practice, which states this list should be as wider range as possible.

Vehicle Livery and Signage,

We feel it is an important part of public safety to have clearly identifiable vehicles, however one must weigh up the cost implication in doing so. The cheaper and very effective means of this is to ensure that all vehicles have signage. This signage should include private hire or hackney carriage and the company's identity if working on or partly on a circuit. Both the rear, front and side should also display the vehicles license number. These factors are far more important than simply the colour of the vehicle.

To have part of a perfectly servable vehicle sprayed a different colour purely for identity, is not only onerous but environmentally unjust. To specify a single colour is again onerous and could influence the purchasing decision of an individual to purchase a vehicle that is less desirable purely because of the limited availability of a specific colour.

Kind regards

Mick Hildreth
Operations Manager
Southern Taxis Group

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Lewes District Council

Taxi & Private Hire Consultation

September 25 2018

Dear Sir or Madam

I write with reference to the council public consultation on Taxi and Private Hire Licensing.

Background

Earlier this year a meeting was arranged with Ed Hele – Lead Functioning Manager and Helen from the councils legal department to meet the GMB and Unite union reps over concerns of the massive influx of Lewes District licensed private hire vehicles and hackney carriage taxis that descended on Brighton & Hove that are now predominantly working in the city.

This followed the convoy of Brighton & Hove licensed drivers making a visit to Lewes High Street to highlight the situation. This was arranged by George Beresford the representative of the 'Independent Drivers Brighton & Hove' group.

At that meeting we discussed various issues of Lewes licensed vehicles predominantly working in Brighton and Hove.

A copy of the notes from that meeting are enclosed.

At that meeting we were informed that there were plans to revise the Lewes DC Taxi and Private Hire Conditions of Licensing which was very encouraging.

A second meeting took place where myself representing the GMB Brighton & Hove Taxi Section along with Sean Ridley... Secretary Unite the Union – South-East Region (Cab Section)and George Beresford of the Independent Drivers Brighton & Hove discussed further issues and concerns.

We have now compiled a joint document on the draft licensing conditions which we trust will assist the councils process in updating the conditions.

Some of the points raised include:

Intended Use Policy: Full support for an 'Intended Use' Policy which will bring Lewes hackney carriages back the Lewes District... where as now a huge amount of these predominantly work in Brighton & Hove. The primary role of a hackney carriage is to service the streets and ranks of the authority it is licensed in and not to exclusively work in another area.

Vehicle Livery: For the protection and the safety of the public all private hire vehicles and hackney carriages should be properly identified as being licensed by the council with licence numbers and council logo. It is not acceptable for such vehicles to only be identified with a rear plate. This is especially important where under the Deregulation Act 2015 private hire drivers/vehicles can work anywhere in the UK (subject to conditions).

CCTV: CCTV is fully supported for the safety of the public and drivers but it is not logical to delay the implementation for three years.

Wheelchair Accessible Vehicles – WAV's: A proper consultation on taxi wheelchair availability should take place and any newly issued hackney carriage licence should only be granted to a WAV. Additionally specific requirements should be expected of all licensed Operators to provide WAV's upon demand with a condition that a set percentage of the fleet should be WAV's. It is not unreasonable for a transport supplier to take responsibility for all abilities.

Exemption to Display Plates/Licence Identification

We found that Lewes DC PHV's were able to remove the rear plates to work as 'every day' private hire type of bookings under the current 'Exemption' policy.

The true purpose of working under an 'Exemption' policy is for completely different private hire work such as Chauffeur and contract work.

A full example of a strict policy of an 'Exemption' Policy is provided

Documents Enclosed:

Document 1: Notes from the meeting of April 13 2018

Document 2: Quick Reference - Points/Comments/Appendix: A compressed document of the original consultation draft (as D3 below) for easier reading with specific sections outlined and respective comments on 17 Points.

Document 3: Original Reference Document: Original Lewes DC Draft Consultation document with Points/Comments highlighted.

Please do not hesitate to contact us if we can assist further.

We would be grateful for an acknowledgement of this presentation.

With regards

Andrew Peters – Secretary GMB Brighton & Hove Taxi Section

Sean Ridley – Secretary Unite the Union – South-East Region (Cab Section)

George Beresford – Independent Drivers Brighton & Hove

Lewes DC Taxi & Private Hire Consultation 2018
GMB – Unite - iDBH

Document 1

**Notes from the meeting of
April 13 2018**

DOCUMENT 1

From: Andrew Peters GMB [mailto:andy.peters@gmbtaxi.org.uk]
Sent: 13 April 2018 13:08
To: 'Hele, Ed'
Cc: Sean Unite
Subject: Today's meeting

Dear Ed

On behalf of Sean Ridley and myself we would like to thank both you and Michelle for your time today which we believe was very constructive as it is always an advantage to have one-to-one meetings .

Sean and I fully recognise the constraints that all local council are under with regards to taxi and private hire licensing but we are pleased that the council is aware of our concerns.

As I mentioned I will need to send out a report on the meeting which I am very happy to refer to you both for approval so that there is no misunderstanding so please feel free to suggest any corrections if needed although I may need to do a final check on the grammar before I release it

As I need to put this out as soon as possible I would be grateful if you could respond soon.

There is one issue that I did not raise and that was with regards to Lewes hackney carriages having to return to the nearest Lewes DC appointed stand which is not currently being undertaken by many such vehicles although this would also come under an 'Intended Use' policy.

Statement:

"Sean Ridley of Unite the Union and myself had been corresponding with Lewes District Council over various concerns with regards to Lewes DC licensed private and hackney carriage vehicles predominantly working in Brighton & Hove.

Sean was offered a meeting by Ed Hele – Functioning Licensing Officer on Friday April 11 where we met up with Ed and the Lewes DC solicitor Michelle (?).

We made it very clear that we fully understood the constraints that local councils work under and that no council can refuse to licence any person unless deemed to not be 'Fit and Proper'.

However we raised a number of specific issues that concerned us and we are pleased to state that our hosts were very receptive on the following points:

- **Wolverhampton:** As an example Wolverhampton Council had issued 6,000 private hire licences where the vast majority of ph vehicles do not work in Wolverhampton and concerns are that Lewes DC will do the same. We were informed that there is currently an eight week backlog of people seeking Lewes DC licences where there had previously only been around 1 to 2 per week. This clearly demonstrated that this was a warning signal of the explosion demand for licences . However we were also informed that most of the applicants come from Brighton addresses. I concluded that this may relate to people living in Brighton & Hove who wished to bypass the Brighton & Hove conditions of licensing who obtained licences from TfL to work in the city who have now been told that TfL vehicles will be geo-fenced by Uber although that appears to have not occurred. (It is not illegal to hold a licence in an area that you do not reside)
- **Conditions of Licensing:** Lewes DC hackney carriages not complying with conditions of licensing with regards to working as a ph in another area without a 'pre-booked' job as defined in the conditions of licensing. It was explained that as per the councils own conditions

(see below) Lewes DC hackneys seeking ph work outside of the Lewes DC authority are not servicing 'pre-booked' jobs as they are actively seeking to obtain 'pre-booked' jobs whilst predominantly working outside of Lewes DC where no 'pre-booked' jobs have been already assigned. It was pointed out that the use of the Uber App allowed such a Lewes DC hackney to effectively 'Ply for hire'.... *although plying for hire has never been defined in law*. It was stated that the GMB regards this as 'Touting for hire' where there is no 'pre-booked' job.

Lewes DC hackney carriages not complying to livery conditions by removing roof signs which must be fixed in place: Photographic evidence was shown to illustrate the problem and as requested further details will now be provided for the council to act on.

“14. OPERATION OUTSIDE THE LICENSING DISTRICT

Hackney Carriages are licensed to ply for hire within the Lewes District Council's area and MAY NOT ply for hire beyond the district boundary. A passenger boarding the vehicle within the licensed area may be transported into another area. Furthermore, since a hackney carriage is permitted to be used for private hire purposes a passenger may be collected from another area on a pre-booked basis, although plying for hire is strictly prohibited.”

- **Lewes hackney carriages working on the Uber app breaching ‘Controlled Fares’:** No hackney carriage in a controlled district may charge more than the metered rate as set down by the council. It was made clear that should a Lewes hackney carriage driver carry out a job within the Lewes DC authority where a fare is charge more than the prescribed Lewes DC rate such as making a cancellation charge or using ‘Surge Pricing’ then that driver would be committing an offence.
- **Dual Licensing:** A specific TfL private hire vehicle has been named by Uber as being licensed by Lewes DC. This vehicle still shows a TfL Roundel and is currently licensed by TfL but Lewes DC does not allow Dual licensing although recent communications show that TfL does.. although it is questioned as how that can ever be done legally? The vehicle in question does not show any Lewes DC plate but it was explained that it might be licensed under the Lewes DC ‘Exemption Policy’ and that this is currently being looked in to.
- **Knowledge Test:** Concerns were raised about Lewes having less requirements for such a knowledge test than Brighton & Hove. It was explained that the system in place is an interactive one based on multiple choice answers and that people do fail this. Additionally after three failures there is a ‘penalty time’ imposed before it can be re-taken.
- **Concordant Arrangements with Brighton & Hove City Council:** This relates to reciprocal arrangements between councils where a council is given certain ‘Enforcement Powers’ to use on private hire and hackney carriage vehicles not licensed by the resident council. We explained that we had been informed that previously such arrangements had not been possible between certain councils. However we were very pleased to be informed that this will now be changing. This would mean that the Brighton & Hove Enforcement Team would have the powers of Enforcement on Lewes DC private hire and hackney carriage vehicles. This of course would also be in place for the Lewes DC Enforcement Team to have Enforcement powers of Brighton & Hove private hire and hackney carriage vehicles. Both Sean and myself expressed our delight that this would now be taking place at some point.
- **Exemption Policy:** Currently the ‘Exemption Policy’ is at the discretion of the Licensing Department but will be updated (see further on).
- **Intended Use Policy:** There is no such ‘Intended Use’ policy in place but will be updated (see further on).
- **Complaints Procedure:** I explained that Brighton & Hove council were concerned about complaints not supplying the required information needed to instigate an investigation and that because I was told it would take the council sometime to produce an online complaints form that I had produced one myself which has been approved by the council for use. Currently Lewes DC does not have such a facility but is receptive in providing an email address that a similar online complaints form that I have produced that is directed to Lewes Council can be used.

Various other matters were discussed including current conditions of licensing and we were informed that there is the intention to revise the 'Conditions of Licensing'. We were also informed that the council is fully open to suggested/input from the trade

Conclusion:

Sean and myself were very pleased to have obtained this meeting with the council and we are certainly fully aware of constraints that all councils are under especially with the onslaught of Uber. We also are very aware that no council can refused to license anyone unless a person is deemed not to be 'Fit and Proper'.

From the discussions at the meeting between Ede Hele and Michelle we understand that the council realises that the Lewes DC 'Conditions of Licensing' need to be revised. Current conditions have served Lewes DC adequately up until recent changes... this is probably the same in other areas.

We were quite delighted that Lewes DC is receptive to input for the improvement of conditions and on this basis we hope that we can continue with new relationship that we have now made with the council although we are fully aware that any suggestions may not be taken up as it is for the council to make the final decision.

And finally thank you again for your time today...

Andrew Peters
Secretary
GMB Brighton & Hove Taxi Section

Cc Sean Ridley



Lewes DC Taxi & Private Hire Consultation 2018
GMB – Unite - iDBH

Document 2

QUICK REFERENCE

Points/Comments/Appendix:

A compressed document of the original consultation draft for easier reading with specific sections outlined and respective comments on 17 Points

DOCUMENT 2 – QUICK REFERENCE - POINTS/COMMENTS/APPENDIX

Lewes District Council Hackney Carriage and Private Hire Licensing Guidance Draft

The following copies-over the sections of the draft with the accompanying '17 Points' that have been raised as an abbreviated version for easier reading.

Part One – Introduction

“The Council recognises the important role that hackney carriage and private hire vehicles play as part of an integrated transport system as they provide essential services particularly in those situations where public transport is either not available, for example in rural areas, and for those individuals with mobility difficulties.”

Point 1: No actual reference to Wheelchair Accessible Vehicles – WAV's

What is the councils WAV policy to ensure availability to wheelchair users?

All Councils must ensure that when pre-booking travelling requirements with an Operator (for a private hire vehicle/taxi) and accessing hackney carriage taxis on ranks are treated no differently to the able-bodied. See **Part 8: Equalities and Accessibility** for further details

“CCTV

In relation to the introduction of mandatory CCTV for new applicants this will take effect from the date this Guidance becomes effective and for current licence holders they must have CCTV installed within three years of the introduction of the Guidance.”

Point 2: Why three years to introduce CCTV?

If public and driver safety is the councils concern then needs to be introduced as soon as possible but possible with a start date of April 2019 and apply when each vehicle is then relicensed. There is no logic in waiting for three years for implementation?

Part 3: Vehicles

“Limitation of Numbers

The Council currently has no limit on the number of hackney carriages which may be licensed within the District and has no intention of introducing one unless evidence of no significant unmet demand can be provided.”

Point 3: With the new revision of the Conditions of Licensing the council should consider such an Unmet Demand Survey similar to what Brighton & Hove City Council does every three years. Special emphasis should be on the provision of WAV's.

The main objective of this is to clarify how many hackney carriage vehicles licensed by the council actually work with the Licensing Authority Area which would go hand-in-hand with the councils proposed 'Intended Use Policy' to bring back all those hackney carriage taxi predominantly work in other areas instead of Lewes. . This also allows to asses Wheelchair Accessible Vehicle availability.

“Environmental Considerations

The Council has given careful consideration to introducing tougher emissions standards for all licensed vehicles and considers its responsibility in protecting the environment to be an important objective of the Guidance.

The Council is committed to reducing emissions through raising awareness of environmental issues with the trade and other interested parties.

However, at this time the Council considers that its requirement for all vehicles to be tested every six months means that it does not require tougher emission standards for licensed vehicles.

Point 4: This does not equate to new standards expected by many councils therefore consideration should be given to only licensing Euro 4 Petrol and Euro 6 Diesel vehicles to newly licensed vehicles in the same way that Brighton & Hove Council has now imposed.

The council needs to seriously take into consideration that a very high number of Lewes DC PHV's and Hackney Carriages now predominantly work in Brighton & Hove under Uber so this new standard should be imposed by Lewes to reduce pollution in the City where the local trade has now had to comply.”

“Livery

The Council believes that the requirements of this Policy ensure that hackney carriages and private hire vehicles are easily distinguishable and there is no current requirement for specific vehicle livery in the District”

Point 5: For the principle of public safety all hackney carriages a PHV's should carry the door signs with the Lewes DC logo stating whether it is a Licensed Hackney Carriage or Licensed Private Hire Vehicle with the corresponding licence details.

Since the Deregulation Act 2015 private hire drivers/vehicles can work predominantly outside of their own local licensing area.

it is imperative that such PHV's can be easily identified for public safety and complaints so there is a distinction between a possible rogue vehicle and a genuine licensed PHV.

This is much in line with other Licensing Authorities. All PHV's should have the wording 'Advanced Bookings Only' or similar. As there are no plans to have a single colour livery for Hackney Carriages such a door sign would establish the legitimacy of the vehicle for public safety. See the examples of what can be achieved at minimum expense at **'Points Appendix 1'**

“Intended Use (Hackney Carriages only)

A hackney carriage vehicle licensed by one local authority can be used to fulfil pre-booked hirings on behalf of private hire operators licensed by another local authority. In order that the Council may retain local control over the hackney carriages it licenses, applicants will be asked as part of the application process which area they intend to entirely or predominantly operate from for the purposes of fulfilling pre-booked hirings. It will be incumbent upon the applicant to demonstrate to the Council's satisfaction that they intend to ply for hire predominantly within the

District.

If the applicant indicates that they will not predominately work within the District the application will normally be refused.

This section is not intended to act as a restraint of trade since applicants may make applications to any local authority in which area they intend to ply for hire.”

Point 6: This Intended Use Policy is fully supported and will assist in compelling Lewes DC Hackney Carriages to return to the Lewes DC Licensing Authority Area instead of predominantly working in Brighton & Hove under Uber as is currently the case this serve the whole purpose of being a hackney carriage taxi to serve the streets and ranks of Lewes DC.

“CCTV

The Council accepts that security of drivers and passengers is of paramount importance and CCTV can be a valuable deterrent. Under this Guidance CCTV will be a mandatory requirement in all hackney carriages and private hire vehicles.

For new applicants this will apply immediately following the introduction of this Guidance and for current licence holders they must have CCTV installed within three years of the introduction of the Guidance.”

Point 7: As in Point 2 - Why three years to introduce CCTV? If public and driver safety is the councils concern then needs to be introduced as soon as possible but possible with a start date of April 2019 and apply when each vehicle is then relicensed. There is no logic to waiting for three years for implementation?

“Executive Private Hire Vehicles

Executive or chauffeur driven vehicles will require a licence. However, private hire vehicles will be issued with an exemption certificate if the vehicle is of a high quality both in terms of brand and condition. This include but are not limited to luxury brands such as Mercedes Benz, BMW, Jaguar, Rolls Royce, Bentley and Lexus and in addition the vehicle should have no visible defects or dents either externally or internally.

Potential applicants will need to demonstrate that the vehicle will be used exclusively for executive clients and/or special occasions. Examples of these journeys would include but are not limited to corporate events, conferences, exhibitions and meetings, chauffeured services and school proms.”

Point 8: There is no reference to Section 75 the LGMPA 1976 with regard to the Exemption for displaying an external licence plate

It is important to emphasise that such an Exemption to display licence details should not permit ‘Private Hire daily use’ nor should any taxi-meter be allowed.

Please review the enclosed newly introduced ‘Exemption Conditions’ as imposed by Brighton & Hove City Council which goes into a much clearer definition of what is expected to be granted such an ‘Exemption’ allowance. See ‘**Points Appendix 2 – Exemption Clarification**’

Part 4 Drivers

“Age and Experience

The Guidance does not set a minimum age limit for new drivers. However, a licence will not be granted to anyone who has not held a full DVLA or equivalent driving licence, for a period of at least twelve months immediately prior to the application.”

Point 9: Under the condition it would be possible for an 18 year old to be a licensed driver. It is not considered appropriate for an 18 year old to be driving around the public for hire and reward and it is very surprising the Lewes DC considers this to be acceptable. There should be a minimum age of 21 years to qualify as either a PHV or Hackney Carriage driver because of the responsibility required. This is especially relevant as such Lewes licensed drivers predominantly work in Brighton & Hove under Uber where the industry standard minimum age is 21.

To put this into context.. Would the council allow an 18 year old to chauffeur the Mayor of Lewes and dignitaries.

Additionally it would be very surprising if an 18 year would be able to find adequate hire and reward insurance.

“3. Medical Examination

In order to promote the Council’s public safety objective it is a requirement for an applicant to provide a medical assessment from a registered medical practitioner confirming their fitness to drive.

This requirement to produce a medical assessment applies to any applicant unless the applicant is the holder of a current passenger services vehicle or heavy goods vehicle licence and is able to provide proof of medical examination undertaken in the three months prior to the application being made.

A current licence holder must advise the Council forthwith if there is any deterioration in their health that may affect their driving capabilities.

Licensed drivers are required to have a medical assessment at least every five years from the ages of 45 to 65 and after the age of 65 to provide an annual medical assessment. The Council may also require a driver to provide more frequent checks if in the opinion of a medical practitioner that is necessary.

The prescribed form is available from the Council. The medical examination will normally be carried out by the applicant’s GP, but can be from any other medical practitioner if an Authorised Officer agrees, who has accessed the applicants medical records for at least the last two years. On completion the form must be submitted to the Council.

The applicant/licence holder will be responsible for any fees incurred in obtaining a medical examination.”

Point 10: There is no mention of what standard of Medical is required? The industry standard for most Local Authorities is ‘Group Medical 2’ which should also be adopted by the council to ensure that the highest standards are expected for the safety and protection of the public. However consideration must be given on an individual basis.

Part 7 – Disciplinary and Enforcement Measures

“Enforcement

It is recognised that well directed enforcement activity by the Council benefits not only the public but also the responsible members of the hackney carriage and private hire vehicle trade. In order to balance the protection of public safety with the need to prevent unnecessary interference in a licence holder’s business, the Council will ensure that its enforcement is reasonable, proportionate, transparent and consistent. Enforcement action will not normally constitute a punitive response to minor technical contraventions but repeated minor technical contraventions will be subject to appropriate action.”

Point 11: On the basis that a large proportion Lewes DC PHV and Hackney Carriage vehicles/drivers currently working under Uber predominantly work in Brighton & Hove ‘Joint Enforcement’ with other Local Licensing Authorities must be stated here and clarified so the that Lewes DC trade is fully aware that this is in place and that a Brighton & Hove Licensing Enforcement Officer has the power to check the vehicle and driver.

Part 8: Equalities and Accessibility

“The Council is committed to social inclusion and ensuring a wide variety of opportunities are available particularly to those with mobility difficulties.

The Council requires all proprietors, drivers and operators to be compliant with the relevant provisions of the Equality Act 2010 and any subsequent legislation.

The Council will actively encourage the licensing of sufficient accessible vehicles and will maintain a designated list of wheelchair accessible vehicles in the District which can be found on the Council’s website. The Council want to ensure that passengers in wheelchairs are better informed about the accessibility of vehicles in the District and are confident of receiving any assistance they require.”

Point 12: Whilst the council ‘encourages’... ‘...the licensing of sufficient accessible vehicles..’ this does not go far enough to ensure that Lewes DC takes the matter of Disabled Access far enough. Consequently it is strongly recommended that a policy should be in place that would only allow a newly issued hackney carriage licence to be granted if a WAV (Wheelchair Accessible Vehicle) is presented.

Point 13: To ensure that Disabled Access is available to the public it is strongly recommended that the council introduces WAV requirement for Operators as a condition of licensing such as a percentage of WAV’s according to the fleet size. It would not be unreasonable to expect a responsible Lewes Licensed Operator to have 20% WAV’s on a fleet of 10+ vehicles.

Conditions Private Hire Vehicles, Hackney Carriage and Specialist Vehicles

“Signage and Advertising

Hackney Carriage must be fitted with an illuminated external roof mounted sign. The sign may either display the word ‘Taxi’, or the words ‘For Hire’. The roof sign and lettering shall be of an appropriate size to enable it to be clearly identifiable to the public. The roof sign must be switched off when the vehicles has been hired and illuminated when available for hire.”

Point 14: All Lewes hackney carriage vehicles should display the wording ‘Lewes District’ on the front and rear roof sign to properly identify the vehicle as being licensed by the council. See **Appendix 1A**

Private Hire Operators Conditions

The following three conditions are recommended to be included for licensed Operators

Point 15: Contact Telephone Number

The Operator must provide a local telephone number which is available to the public for enquiries, complaints or lost property.

Background:

As part of the conditions for Uber to be re-licensed in London TfL have imposed the following changes to that will apply to all Operators:

“TFL New Operator Conditions - Voice contact requirement

Private hire vehicle operators are required to make someone available for passengers to speak to during their hours of business and at all times during a journey if passengers want to make a complaint or discuss other matters relating to their booking (the voice contact requirement).”

This new condition was challenged in court by Uber but this failed.

Unreasonable

It is not unreasonable for a Lewes DC licensed Operator to provide a customer telephone number for ‘Voice Contact’ whether it is app based or other.

It is unreasonable for a customer to only be expected to make contact via email which causes delays.

Proposal - Voice contact requirement for customers

‘An operator will provide a local telephone number manned at its registered base address in the licensing authority area of Lewes DC for the provision for customers to have voice contact during the Operators hours of business and at all times during a journey if passengers wants to make a complaint or discuss matters relating to their booking.’

Purpose

To ensure all Lewes DC licensed Operators achieve the same standards that has always been provided by Operators to improve the process of customer complaints, queries and safeguarding.

Point 16: Complaints

The Operator must respond to any complaints within a period of 24 hours.

The operator must inform the Council in writing within 7 days the details of any driver removed from the operator's circuit giving the reasons for removing that driver

The Operator must report to the Council any allegation or complaint relating to certain serious behaviours, specifically:

- Sexual misconduct
- Violence
- Discrimination
- Wrong driver / vehicle
- Theft
- Touting

Upon receiving any allegation or complaint relating to the above serious behaviours the Operator must take all reasonable steps to restrict the driver's access to work within 24 hours and whilst any investigation is ongoing. All complaints involving these behaviours must be reported by the Operator to the Council within 72 hours of receiving the complaint

Point 17: Lost property.

The Operator must make provision for the safe retention and collection of lost property.

POINTS APPENDIX 1

Examples of private hire vehicle livery incorporating council logo with licence number and company telephone number on rear passenger door



Door sign allows easy recognition as a bona fide Lewes DC licensed PHV wherever it works in the UK

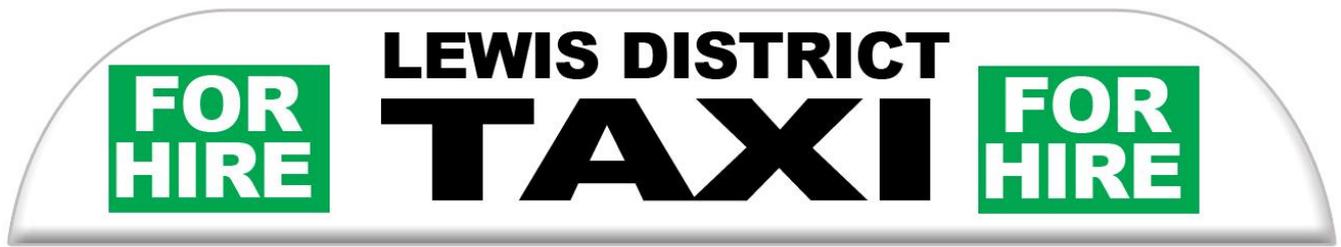
Examples of Hackney Carriage livery with option for telephone number



Front door sign displaying council logo incorporating licence number

**POINTS APPENDIX 1A
Hackney Carriage Roof Sign**

Front



**The new addition of the 'For Hire' display allows
for the correct indication of the status of
the taxi at night**

Rear without a company number



Rear with a company number



POINTS APPENDIX 2

‘EXEMPTION TO DISPLAY VEHICLE IDENTIFICATION’

EXAMPLE OF FULL CLARIFICATION

The Brighton & Hove Taxi trade worked with the council to completely revise the Exemption Poly which resulted in the following conditions of licensing:

Exemption:

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 and 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.

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.

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 above.

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.

Where an application is granted and a vehicle is exempted from displaying its external identification plate an exemption notice will issued as soon as practical after the decision is made.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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).

The proprietor shall within 1 working day notify the Council of any change in the use of the vehicle.

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).

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.

A taximeter will not be installed in the vehicle.

Lewes DC Taxi & Private Hire Consultation 2018
GMB – Unite - iDBH

Document 3

ORIGINAL REFERENCE
Lewes DC Draft Consultation
document with Points/Comments
highlighted.

DOCUMENT 3

ORIGINAL CONSULTATION DOCUMENT WITH 'POINTS/COMMENTS' INSERTED

Lewes District Council Hackney Carriage and Private Hire Licensing Guidance

Effective Date: TBC

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Part One: Introduction

This Licensing Guidance is written pursuant to the powers conferred by the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, as amended, which place on Lewes District Council (“the Council”) the duty to carry out its licensing functions in respect of hackney carriage and private hire vehicles. In addition the Council will have due regard to all other relevant legislation and guidance in its decision making process. The Council has responsibility for the licensing of vehicles, drivers and operators within the district of Lewes and in exercising its discretion the Council will have regard to this Guidance.

****The Council recognises the important role that hackney carriage and private hire vehicles play as part of an integrated transport system as they provide essential services particularly in those situations where public transport is either not available, for example in rural areas, and for those individuals with mobility difficulties.***

Point 1: No reference to Wheelchair Accessible Vehicles – WAV’s

What is the councils WAV policy to ensure availability to wheelchair users?

All Councils must ensure that when pre-booking travelling requirements with an Operator (for a private hire vehicle/taxi) and accessing hackney carriage taxis on ranks are treated no differently to the able-bodied.

In setting out this Guidance the Council seeks to;

- a. Ensure the safety and welfare of the public which is the overriding objective,
- b. Encourage environmental sustainability,
- c. Ensure an efficient and effective hackney carriage and private hire provision,
- d. Monitor and improve standards of service in the trade

Notwithstanding the existence of this Guidance, each application or enforcement measure will be considered on its own merits. Where it is necessary for the Council to substantially depart from this Guidance, in exceptional circumstances, reasons will be given for doing so. This Guidance will take effect *from xxx* and will be kept under review and amended as and when necessary to reflect changes in legislation, case law, statutory guidance and best practice.

Minor amendments to this Guidance required for example by virtue of legislative change or administrative procedural change may be made by the Functional Lead - Quality Environment in consultation with the Chair of the Licensing Committee and the Cabinet Member with responsibility for Licensing.

Significant amendments to the Guidance will require a full public consultation prior to consideration by the full Licensing Committee. Significant amendments include those that will have a significant procedural or financial impact on applicants, licence holders or the public and those which are inconsistent with the Guidance objectives.

When any revisions are made to the Guidance the Council will publish a statement of the revision on its website along with the revised Guidance.

Transitional Arrangements

The Guidance will have effect from *xxx date agreed*. With the exception of the Vehicle Licence Conditions which for new applicants for a vehicle licence will take effect from the

date this Guidance becomes effective, and for existing vehicle licence holders will take effect from when they change the vehicle to which the licence applies.

****In relation to the introduction of mandatory CCTV for new applicants this will take effect from the date this Guidance becomes effective and for current licence holders they must have CCTV installed within three years of the introduction of the Guidance.***

Point 2: Why three years to introduce CCTV? If public and driver safety is the councils concern then needs to be introduced as soon as possible but possible with a start date of April 2019 and apply when each vehicle is then relicensed. There is no logic to waiting for three years for implementation?

Part 2: Definitions

The 1847 Act	Town Police Clauses Act 1847
The 1976 Act	The Local Government (Miscellaneous Provisions) Act 1976
Authorised Council Officer	Means an Officer of the Council authorised under the Council's Scheme of Delegation to administrate the licensing function
Best Practice Guidance	Means Best Practice Guidance on Taxi and Private Hire Vehicles Licensing issued by the Department of Transport in March 2010 as amended or as may be replaced.
Council or Licensing Authority	Means Lewes District Council in its licensing function
Driver	Refers to a hackney carriage, private hire, dual and restricted driver, unless expressly stated or the context indicates otherwise
Hackney Carriage	Means a vehicle licenced under the 1847 Act to stand or ply for hire throughout the district controlled by the Council
He/his	shall apply to female equivalent
Private Hire Operator	Means a person who in the course of business makes provision for the invitation or acceptance of bookings for private hire vehicles
Private Hire Vehicle	A motor vehicle constructed or adapted to seat fewer than nine passengers, other than a hackney carriage or public service vehicle, which is provided for hire with the services of a driver for the purpose of carrying passengers
Proprietor	Refers to owners of either hackney carriage or private hire vehicles, unless expressly stated or the context indicates otherwise and includes a part proprietor
Restricted Private Hire	

Driver	Only undertake school transport work in a private hire vehicle. The driver would be responsible for driving a child to and from their school and the licence does not permit the licence holder to undertake any other work.
Vehicle	Refers to a hackney carriage or private hire or specialist vehicle, unless expressly stated or the context indicates otherwise

***Part 3: Vehicles**

Limitation of Numbers

The Council currently has no limit on the number of hackney carriages which may be licensed within the District and has no intention of introducing one unless evidence of no significant unmet demand can be provided.

Point 3: With the new revision of the Conditions of Licensing the council should consider such an Unmet Demand Survey similar to what Brighton & Hove City Council does carries out three years.

The main objective of this is to clarify how many hackney carriage vehicles licensed by the council actually work with the Licensing Authority Area which would go hand-in-hand with the councils proposed 'Intended Use Policy' to bring back all those hackney carriage taxis predominantly work in others areas instead of Lewes.. This also allows to asses Wheelchair Accessible Vehicle availability.

No powers exist for the Council to limit the number of private hire vehicles that it may licence.

Specifications and Conditions

The Council has a wide discretion over the type of vehicle it can licence and the Best Practice Guidance suggests that local licensing authorities should adopt the principle of specifying as many different types of vehicle as possible.

The Council is empowered to impose such conditions as it considers reasonably necessary in relation to vehicles licences.

Licence conditions relevant to the type of vehicle are contained in Appendix 1.

***Environmental Considerations**

The Council has given careful consideration to introducing tougher emissions standards for all licenced vehicles and considers its responsibility in protecting the enviroment to be an important objective of the Guidance.

The Council is committed to reducing emissions through raising awareness of environmental issues with the trade and other interested parties.

However, at this time the Council considers that its requirement for all vehicles to be tested every six months means that it does not require tougher emission standards for licensed vehicles.

Point 4: This does not equate to new standards expected by many councils therefore consideration should be given to only licensing Euro 4 Petrol and Euro 6 Diesel vehicles to newly licensed vehicles which is what Brighton & Hove Council has now imposed.

The council needs to seriously take into consideration that a very high number of Lewes DC PHV's and Hackney Carriages now predominantly work in Brighton & Hove under Uber so this new standard should be imposed by Lewes to reduce pollution in the City.

Maximum Age of Vehicles

Vehicles presented for first licensing shall not be more than five years old and vehicles of more than ten years old will not be relicensed, apart from in exceptional circumstances at the discretion of an Authorised Officer, but it is noted that the transitional period operates to this part of the Guidance.

Vehicle Testing

No vehicle may be used unless it has a current MOT pass certificate and a certificate of compliance following a satisfactory test both of which must be dated no earlier than one calendar month prior to the licence commencement date. Vehicles that are less than one year old will be exempt from obtaining a current MOT pass certificate but will still be required to obtain a certificate of compliance pass certificate.

All vehicles will be subject to an annual MOT and six monthly compliance test. Each application for a grant or renewal of a vehicle licence must be accompanied with proof of compliance.

The licence of any vehicle which fails its testing requirement will be automatically suspended until such time as the vehicle has been re-examined and the necessary pass certificate obtained.

In addition, the Council will undertake a programme of inspections between formal testing dates. All vehicles must be available for inspection, at any location within the District, at all times, when requested by an Authorised Officer or a Police Officer. All vehicle documentation must be produced within 24 hours, or at such time as specified, when requested by an Authorised Officer or a Police Officer. In the event of any concerns in relation to vehicle safety the vehicle will be referred for a formal assessment. Where in the opinion of an Authorised Officer the testing requirements would not be met they may agree a period of time for rectification and re-inspection or they will suspend the vehicle until such time as the re-testing requirements shall be met.

Responsibility for ensuring the vehicle is tested and licensed remains with the licence holder.

Inspections are only to be carried out by a VOSR approved garage in the District.

***Livery**

The Council believes that the requirements of this Policy ensure that hackney carriages and private hire vehicles are easily distinguishable and there is no current requirement for specific vehicle livery in the District.

Point 5: For the principle of public safety all hackney carriages a PHV's should carry the door signs with the Lewes DC logo stating whether it is a Licensed Hackney Carriage or Licensed Private Hire Vehicle with the corresponding licence details.

Since the Deregulation Act 2015 private hire drivers/vehicles can work predominantly outside of their own local licensing area.

It is imperative that such PHV's can be easily identified for public safety and complaints so there is a distinction between a possible rogue vehicle and a genuine licensed PHV.

This is much in line with other Licensing Authorities. All PHV's should have the wording 'Advanced Bookings Only' or similar. As there are no plans to have a single colour livery for Hackney Carriages such a door sign would establish the legitimacy of the vehicle for public safety. See the examples of what can be achieved at minimum expense at 'Points Appendix 1'

Change of Ownership

Any change to the proprietor named on a vehicle licence must be notified to the Council within fourteen days of any change.

When the proprietor of a vehicle licence wishes to transfer the licence to another person, company or partnership he must notify the Council, using the prescribed application form and paying the appropriate fee, before such a change takes place.

Unauthorised Use

The proprietor shall not allow the vehicle to be driven and/or used for hire by any person who does not hold an appropriate current driver licence.

****Intended Use (Hackney Carriages only)***

A hackney carriage vehicle licensed by one local authority can be used to fulfil pre-booked hirings on behalf of private hire operators licensed by another local authority. In order that the Council may retain local control over the hackney carriages it licenses, applicants will be asked as part of the application process which area they intend to entirely or predominantly operate from for the purposes of fulfilling pre-booked hirings. It will be incumbent upon the applicant to demonstrate to the Council's satisfaction that they intend to ply for hire predominantly within the District.

If the applicant indicates that they will not predominately work within the District the application will normally be refused.

This section is not intended to act as a restraint of trade since applicants may make applications to any local authority in which area they intend to ply for hire.

Point 6: This Intended Use Policy is fully supported and will assist in compelling Lewes DC Hackney Carriages to return to the Lewes DC Licensing Authority Area instead of predominantly working in Brighton & Hove under Uber as is currently the case this serve the whole purpose of being a hackney carriage taxi to serve the streets and ranks of Lewes DC.

Accident Reporting

Any accident in a vehicle 'causing damage materially affecting the safety, performance or appearance of the vehicle or the comfort or convenience of passengers' must be reported to the Council as soon as reasonably practicably and in any case within 72 hours of the event.

Following any accident, as defined above, if it is the intention of the proprietor to continue licensed use the vehicle must be inspected by a VOSR approved garage in the District to determine its fitness. It is the responsibility of the licence holder to notify the Council that this requirement has been satisfied. The Council may suspend the use of the licenced vehicle until it is suitably repaired and conforms to the testing requirements.

A licensed vehicle which has suffered major accident damage or requires substantial mechanical repair may be temporarily replaced by another vehicle provided that the damage or defect has been reported to an Authorised Officer, and the replacement vehicle meets the requirements of this Guidance and is suitable to be used for hire purposes.

****CCTV***

The Council accepts that security of drivers and passengers is of paramount importance and CCTV can be a valuable deterrent. Under this Guidance CCTV will be a mandatory requirement in all hackney carriages and private hire vehicles.

For new applicants this will apply immediately following the introduction of this Guidance and for current licence holders they must have CCTV installed within three years of the introduction of the Guidance.

Point 7: As in Point 2 - Why three years to introduce CCTV? If public and driver safety is the councils concern then needs to be introduced as soon as possible but possible with a start date of April 2019 and apply when each vehicle is then relicensed. There is no logic to waiting for three years for implementation?

The installation and operation of the CCTV systems shall comply with the requirements of the Information Commissioner's CCTV Code of Practice. Following the installation of any CCTV installed into the vehicle it is incumbent upon the operator, proprietor or driver to handle relevant data in an appropriate or secure manner.

The CCTV system shall comply with any legislative requirement as regards safety, technical acceptability and operational/data integrity.

The CCTV will remain at all times the property of the proprietor of the vehicle who will be responsible for the maintenance of the system and will ensure that it is checked regularly and maintained in working order at all times. If at any time the CCTV systems is not working it must be reported to an Authorised Officer within 72 hours.

The CCTV system must be capable of date, time and vehicle identification. It must be capable of capturing images during daytime and darkness of sufficient quality to enable the identification of any person travelling in the vehicle and be of such quality that it can be used for prosecution purposes, where necessary.

The positioning of the CCTV should be such that the hard disc or data card is not accessible to any passenger travelling in the vehicle. The equipment must be securely fixed such that it cannot be tampered with or damaged by any person travelling in the vehicle.

The CCTV system shall not be used to record conversations between members of the public, since that is highly intrusive, and if any system is equipped with a sound recording facility then that functionality shall be disabled.

All vehicles with a CCTV system shall display prominent notices, visible both outside and inside the vehicle, to inform passengers that a CCTV system is in operation.

An Authorised Officer or Police Officer may, on reasonable notice, examine any camera installation or any footage from the CCTV. The Council shall be permitted to access data where they have received a complaint involving the vehicle or its driver and the complaint cannot be fully investigated without access to the recording. The licence holder shall co-operate with any Police investigation where access to the CCTV footage may assist.

The CCTV system must be capable of recording and storing images for a minimum of 28 days.

Vehicle Specification

The Council's general specifications are;

Vehicles shall be fitted with a minimum of four side doors of a size to permit easy access.

Must have a minimum engine capacity of 1000cc (Any hybrid/LPG, electric or other alternatively powered vehicle must have an equal power output to a 1000cc engine)'.

The vehicle shall be designed to permit the specified number of passengers to be carried in comfort and safety. The rear seat must be at least 48 inches wide and all seats shall have a minimum width of 16 inches per person

The vehicles shall be provided with adequate luggage space for the number of passengers for which the vehicle is licensed.

Vehicles may be of the saloon, estate, hatchback or MPV type and all vehicles must be approved by the Council. Estate vehicles must be fitted with a grill or parcel shelf sufficient to prevent luggage coming into contact with passengers using rear seats.

Left hand drive vehicles will not normally be licensed, except with the agreement of an Authorised Officer.

Stretched Limousines and Other Specialist Vehicles

Any stretched limousine capable of carrying eight passengers or less which is offered for hire will require a licence.

For the purposes of this Guidance a stretched limousine is a motor vehicle that has been lengthened by the insertion of an additional body section and modified by a coachbuilder to contain luxury facilities and fixtures that is capable to carrying up to but not exceeding 8 passengers.

The Individual Vehicles Approval Inspection regime introduced by the Vehicle and Operator Services Agency will apply to all limousine and speciality vehicles that do not meet the standard vehicle specification.

The Council recommends that anyone wishing to licence a limousine or specialist vehicle should contact the Council before purchasing a vehicle to ensure that advice is given about meeting the required standards.

Funeral and Wedding Vehicles

There is no requirement for a vehicle to be licensed when it is being used in connection with a funeral, or is being wholly or mainly used by a person carrying out the business of a Funeral Director for the purposes of funerals.

A vehicle does not need to be licensed whilst it is being used in connection with a wedding. For clarification, the exemption only applies to journeys directly relating to the wedding service itself for example transporting the bride/and or groom to the wedding service, from the service to the reception and from the service/reception to home. Transport to other locations such as the airport would be considered a licensable activity.

Ambulance and Other Patient Transport

Ambulances defined by, 'vehicles conforming to original manufacturers specifications and equipped and used for the carriage of sick, injured or disabled people with permanent rear compartment and means of carrying passengers in a recumbent position together with an attendant seat for use by accompanying medical professionals, readily identifiable as a vehicle used for the carriage of such people by being marked ambulance on both sides', will be exempt from private hire vehicle licensing.

In addition, the Council will exempt from licensing those vehicles being used by volunteer drivers (unpaid) to take patients to and from hospital.

Courtesy Vehicles

Courtesy vehicles used for example for transporting customers to and from garages, airports, hotels and night clubs without charge but with a clear business benefit should be licensed even though there may not be a separate charge for using the vehicle. For clarification, in addition the operator and the driver should also be **licenced**.

***Executive Private Hire Vehicles**

Executive or chauffeur driven vehicles will require a licence. However, private hire vehicles will be issued with an exemption certificate if the vehicle is of a high quality both in terms of brand and condition. This Page 14

Mercedes Benz, BMW, Jaguar, Rolls Royce, Bentley and Lexus and in addition the vehicle should have no visible defects or dents either externally or internally.

Potential applicants will need to demonstrate that the vehicle will be used exclusively for executive clients and/or special occasions. Examples of these journeys would include but are not limited to corporate events, conferences, exhibitions and meetings, chauffeured services and school proms.

Point 8: There is no reference to Section 75 the LGMPA 1976 with regard to the Exemption for displaying an external licence plate

It is important to emphasise that such an Exemption to display licence details should not permit 'Private Hire daily use' nor should any taxi-meter be allowed.

Please review the enclosed newly introduced 'Exemption Conditions' as imposed by Brighton & Hove City Council which goes into a much clearer definition of what is expected to be granted such an 'Exemption' allowance. See 'Points Appendix 2 – Exemption Clarification'

Dual Plating

The Council will not grant a vehicle licence for any vehicle already licensed by another licensing authority.

Part 4: Drivers

Licences

The Council issues the following types of drivers' licences;

- Hackney carriage
- Private Hire
- Dual Drivers – holding both a hackney and private hire drivers licence
- Restricted Private Hire

The statutory and practical criteria and qualifications for all drivers are broadly the same. Therefore this section applies equally to hackney carriage, private hire, dual and restricted private hire drivers unless otherwise stated.

***Age and Experience**

The Guidance does not set a minimum age limit for new drivers. However, a licence will not be granted to anyone who has not held a full DVLA or equivalent driving licence, for a period of at least twelve months immediately prior to the application.

Point 9: Under the condition it would be possible for an 18 year old to be a licensed driver. It is not considered appropriate for an 18 year old to be driving around the public for hire and reward and it is very surprising the Lewes DC considers this to be acceptable. There should be a minimum age of 21 years to qualify as either a PHV or Hackney Carriage driver because of the responsibility required. This is especially relevant as such Lewes licensed drivers predominantly work in Brighton & Hove under Uber where the industry standard minimum age is 21.

To put this into context.. Would the council allow an 18 year old to chauffeur the Mayor of Lewes and dignitaries.

Additionally it would be very surprising if an 18 year would be able to find adequate hire and reward insurance.

An applicant who meets the licensing requirement by virtue of an acceptable non UK driving licence must obtain a full UK driving licence within 12 months of the issuing of the driver licence.

Where this requirement is not satisfied the driver's licence will be automatically suspending pending compliance. This requirement is to ensure appropriate regulation of any penalty points issued by the courts in relation to road traffic offences and is an integral part of the 'fit and proper person' test.

There is no maximum age limit for drivers but once the licence holder reaches the age of 65 they will be required to provide to the Council annual medical checks.

Driver Tests

Applicants for hackney carriage, private hire or dual driver licences will be required to complete three main tests as part of the application process. Applicants for a restricted private hire driver's licence are not required to take the local area knowledge test.

1. Knowledge Test

The knowledge test includes questions on local area knowledge. Hackney carriage drivers clearly need a good working knowledge of the District because hackney carriages can be hired immediately whilst private hire vehicles must be pre booked so there would be an opportunity to research the required route. Therefore, the Council's computer based knowledge test is comprised of two slightly different tests one for private hire drivers and another for hackney and dual drivers licences.

Both tests involve the applicant having local knowledge in addition to an understanding of the Guidance, the law, and the Highway Code.

Other parts of the test includes testing the knowledge and awareness of applicants in relation to customer service and English and numeracy.

Applicants are limited to three attempts at the test per application and the test must be passed within six months of receipt their application. If they fail the tests, their application will be rejected and they must wait for at least six months before reapplying.

Any person found cheating will be disqualified from the test and will not be granted a licence for at least three years.

Applicants are required to provide photographic identification on the day of the test, for example a passport, and if they fail to provide photographic ID their test will be cancelled.

The cost of the test is not included in the application fee. Each test is paid for at the time of booking and the fee is non-refundable.

In addition, drivers will be required to attend training sessions on Equalities Awareness including Disability Awareness, and Child Sexual Exploitation and Safeguarding run by a body approved by the Council. Applicants who fail the training will be required to resit the training and pass before a licence can be issued. The costs of this training are payable by the applicant.

2. Driving Proficiency Test

New applicants are required to undertake a driving proficiency test and details of local companies who offer the test will be provided at the application stage.

***3. Medical Examination**

In order to promote the Council's public safety objective it is a requirement for an applicant to provide a medical assessment from a registered medical practitioner confirming their fitness to drive.

This requirement to produce a medical assessment applies to any applicant unless the applicant is the holder of a current passenger services vehicle or heavy goods vehicle licence and is able to provide proof of medical examination undertaken in the three months prior to the application being made.

A current licence holder must advise the Council forthwith if there is any deterioration in their health that may affect their driving capabilities.

Licensed drivers are required to have a medical assessment at least every five years from the ages of 45 to 65 and after the age of 65 to provide an annual medical assessment. The Council may also require a driver to provide more frequent checks if in the opinion of a medical practitioner that is necessary.

The prescribed form is available from the Council. The medical examination will normally be carried out by the applicant's GP, but can be from any other medical practitioner if an Authorised Officer agrees, who has accessed the applicants medical records for at least the last two years. On completion the form must be submitted to the Council.

The applicant/licence holder will be responsible for any fees incurred in obtaining a medical examination.

Point 10: *There is no mention of what standard of Medical is required? The industry standard for most Local Authorities is 'Group Medical 2' which should also be adopted by the council to ensure that the highest standards are expected for the safety and protection of the public. However consideration must be given on an individual basis.*

Disclosure & Barring Service (DBS) Disclosures

A DBS check on a driver is an essential safety measure in assessing whether or not an applicant is suitable to hold a licence therefore an Enhanced Disclosure provided by the DBS is required for all applicants whether in relation to new or renewal applications.

The Rehabilitation of Offenders Act 1974 (as amended) does not apply to applicants for drivers licences therefore applicants are required to disclose all convictions etc including those that would normally be regarded as spent but only relevant 'spent' convictions will be taken into account by the Council. Further details are provided in Appendix 2 Guidelines on Relevance of Convictions etc.

Before an application will be considered the applicant must provide a current, not less than three months old, Enhanced Disclosure. The only exception would be where an applicant has registered with the DBS for the online checking service and the Council has seen the latest DBS to which the online check refers.

In the case of new applicants with less than five years residence in the UK a Certificate of Good Conduct will be required from the relevant embassy of any country where they have lived for a period of more than one year, in addition to an Enhanced Disclosure covering their time in the UK.

In the case of renewal applicants who have been out of the UK for a period of more than six months they will need to provide a Certificate of Good Conduct from the relevant embassy of that country.

All Certificates of Good Conduct must be translated into English by an accredited translator and accompanied by a declaration to that effect.

The Council is bound by the rules of confidentiality and will not disclose information obtained to any third party save as required by the law. The applicant for an Enhanced Disclosure will be sent a certificate to their home address and will need to provide the original to the Council.

The Council will also make checks with the National Anti-Fraud Network database on refusal and revocation of licences when that is available.

DVLA Licence Checking

In order to ensure the Council have a driver's complete driving history the Council will check with the DVLA for all new applications and annually. The cost of these checks are borne by the applicant.

Any discrepancies between the DVLA record and the applicants driving licence will be brought to the attention of the DVLA and the Police, as appropriate.

Right to Work

In addition all applicants will be required, prior to the grant or renewal of the licence, to demonstrate their right to work in the UK and details are contained in Appendix 4.

Conditions

The Council is permitted to apply conditions to private hire licences as it may consider reasonably necessary and those are contained in Appendix 5.

The Council is not permitted to apply condition to hackney carriage drivers but instead byelaws apply as contained in Appendix 6.

Duration

The Council will licence drivers for a maximum of three years from the date of the licence but also offers applicants the choice of an annual licence.

Part 5: Private Hire Operators

Any person who operates a private hire service using one or more private hire vehicles must have a private hire operator's licence. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a private hire vehicle.

An operator must ensure that every private hire vehicle has a current private hire vehicle licence and is driven by a person who holds a current private hire drivers licence. All three licences, operator, driver and vehicle must be issued by the same licensing authority.

Conditions

The Council has the power to impose such conditions on an operator's licence as it considers reasonable, necessary and proportionate. These are found at Appendix 3.

DBS Disclosures

Operators cannot be required to produce an Enhanced Disclosure therefore a Basic Disclosure and/or a Certificate of Good Conduct form, as relevant, is required. A reference covering the applicant's financial records and/or business history may also be considered appropriate in some instances.

Before an application for an operator's licence will be considered the applicant must provide a current (not less than three months old) Basic Disclosure and/or Certificate of Good Conduct. Applicants that hold a current drivers licence with the Council will be exempt from this requirement.

Public Liability Insurance

The Council may check that appropriate public liability insurance has been taken out for premises that are open to the public. Before an application for an operator's licence is made the applicant must either produce evidence that they have taken out appropriate public liability insurance for the premises to be licenced or signed a declaration that their premises are not open to the public.

Address From Which May Operate

The Council will specify on the licence the address from which the operator may accept bookings and dispatch vehicles. The operator must notify the Council in writing of any proposed change of address during the period of the licence. The operator may not change the operating address until such time as the change has been approved by the Council.

The Council will not grant an operator's licence for an operating base that is outside the district. This is to ensure that proper regulation and compliance measures may be taken by the Council and is in no way intended to be a restraint of trade.

Sub-contracting of Private Hire Bookings

A licensed operator may sub contract a booking to another licensed operator, whether in the same district or not. Both operators must be licensed within the area in which their operating base is located and should record details of the booking.

The initial booking must be taken within the area in which the operator is based and the sub contracted booking must be taken within the area in which the sub contracted operator is based.

Right to Work

All applicants will be required prior to the grant of the licence to demonstrate their right to work in the UK and details are contained in Appendix 4.

Licence Duration

The Council will ordinarily issue a successful applicant an operator's licence with a five year licence subject to the power to grant a licence for a year should this be appropriate in the circumstances or requested.

Part 6: Application Process

This section of the Guidance is intended to give an indication of the application process relating to all application types. The Council notes that there are no prescribed time scales for dealing with applications but it will endeavour to deal with all applications in a timely manner.

Vehicles

An application for a vehicle licence will only be considered complete when all of the following components have been received:

- Prescribed application form fully completed
- Appropriate fee
- V5 registration document
- Current valid insurance certificate of cover note
- MOT certificate
- Certificate of compliance

Drivers

An application for a drivers licence will only be considered complete when all of the following components have been received:

- Prescribed application form fully completed
- Appropriate fee
- Current valid full driving licence

- Enhanced DBS disclosure and/or Certificate of Good Conduct (as appropriate)
- Knowledge test pass (new drivers only)
- Medical certificate (new applicants or those aged over 65 where applicable)
- Proof of right to work in the UK (new applicants and existing drivers where applicable)
- A passport sized, clear and easily identifiable photograph of the applicant
- Proof of identity. Applicants must submit one form of proof of address such as a utility bill (the proofs of address should not be more than three months old)
- Two character references
- DVLA mandate results
- Proof of passing the training in Equalities Awareness including Disability Awareness, and Child Sexual Exploitation and Safeguarding

Operators

An application for an operator's licence will only be considered complete when all of the following components have been received

- Prescribed application form fully completed
- Appropriate fee
- Inspection of the operating premises by an Authorised Officer
- Proof of Public Liability Insurance (as appropriate)
- A financial or business reference
- Basic Disclosure/Certificate of Good Conduct unless already licensed as a driver with the Council.

Application form, appropriate fees and all supporting documentation should be submitted at least fourteen days prior to the expiry of the previous licence. Incomplete applications may be returned to the applicant for resubmission when complete. A licence will not be processed without all supporting documentation being received which satisfy the requirements of this Guidance.

If a licence has not been issued at the point when an existing licence expires the licence holder must cease operating until the new licence has been received.

Consideration of Applications

Unsuccessful applicants will be informed of the Council's reasons for the refusal and their right of appeal against the decision to the Courts.

Part 7 – Disciplinary and Enforcement Measures

***Enforcement**

It is recognised that well directed enforcement activity by the Council benefits not only the public but also the responsible members of the hackney carriage and private hire vehicle trade. In order to balance the protection of public safety with the need to prevent unnecessary interference in a

licence holder's business, the Council will ensure that its enforcement is reasonable, proportionate, transparent and consistent. Enforcement action will not normally constitute a punitive response to minor technical contraventions but repeated minor technical contraventions will be subject to appropriate action.

Point 11: On the basis that a large proportion Lewes DC PHV and Hackney Carriage vehicles/drivers currently working under Uber predominantly work in Brighton & Hove 'Joint Enforcement' with other Local Licensing Authorities must be stated here and clarified so the that Lewes DC trade is fully aware that this is in place and that a Brighton & Hove Licensing Enforcement Officer has the power to check the vehicle and driver.

Informal Action

An Authorised Officer will deal with the majority of incidents involving potential disciplinary or enforcement action. They can take informal action to secure compliance including offering advice and giving verbal or written warnings. Informal enforcement action may be appropriate where an Authorised Officer considers;

- The act or omission is not serious enough to warrant formal actions
- It can reasonably be expected that informal action will achieve future compliance
- Confidence in the driver or operator is ordinarily high
- The consequences of non-compliance will not pose a significant risk to public safety

Formal Action

Whilst each incident will be considered in the light of all circumstances a relevant licence holder will normally be given a written warning by an Authorised Officer including but not limited to;

- Failure to notify the Council of a change of address within prescribed timescales
- Refusal to accept hiring without reasonable cause
- Unreasonably prolongation of journey
- Leaving a hackney carriage unattended at a rank
- Failure to produce relevant documents within proscribed timescales
- Unsatisfactory condition of vehicle, externally and internally
- Failure to provide proof of insurance when requested
- Carrying more passengers than stated on the vehicle licence
- Failure to display plate or appropriate door signs
- Failure to notify a transfer of vehicle licence within prescribed timescales
- Failure to report an accident within prescribed timescales
- Failure to carry a fire extinguisher
- Failure to carry a first aid kit
- Failure to use authorised roof light
- Smoking in the vehicle
- Failure to have driver badge clearly displayed
- Failure to observe rank discipline
- Failure to issue receipt on request
- Driving whilst using a mobile phone.

If an Authorised Officer gives two or more written warnings in a twelve month period the licence holder will be referred in the first instance to the Senior Specialist Advisor.

Serious disciplinary or enforcement matters will be immediately referred to the Senior Specialist Advisor and will include, but are not limited to;

- Unlawful plying for hire
- Providing false or misleading information on the licence application form
- Overcharging
- Any relevant conviction, caution or fixed penalty notice
- Failure to carry an assistance dog without an exemption certificate
- Failure to carry passengers in wheelchairs in a designated vehicle without an exemption certificate
- Failure to notify in writing a change in medical conditions which would impact on drivers abilities to drive

- Obstruction of an Authorised Officer or Police Officer wishing to examine the vehicle.
- Using a licensed vehicle in a dangerous condition
- Driver not holding a current DVLA licence
- Using a vehicle for which the licence has been suspended or revoked.

Referrals

Whilst the day to day enforcement of licensing is a function carried out by Authorised Officers serious or repeated disciplinary matters will be referred to the Senior Specialist Advisor in the first instance and at his discretion to the Licensing Sub Committee or exceptionally to the full Licensing Committee. Therefore any reference to Senior Specialist Advisor in this part also means Licensing Committees.

The Senior Specialist Advisor will consider the impact of transgressions on the fitness of an individual to hold a licence and take appropriate action.

Enforcement and Disciplinary Meetings/Hearings

Where the Senior Specialist Advisor is considering disciplinary and/or enforcement action against a licence holder, the licence holder will be entitled to attend a meeting with them to answer allegations and/or provide any mitigating circumstances, if they wish to do so.

Prior to attending the meeting, an Authorised Officer will provide a written report containing all the information necessary to understand the allegation(s), the relevant sections of this Policy, the options available and any other relevant information. The report will be provided to the licence holder at least five working days prior to the meeting.

Following such a meeting or when the licence holder does not require such a meeting the Senior Specialist Advisor may decide to take one or more of the following actions;

- No action
- Informal advice (verbal or written warnings)
- Require the production of driving licences or other specified documentation
- Use statutory notices (section 68 stop notices, etc.)
- Suspend a licence
- Revoke a licence
- Authorise a Fixed Penalty Notice (after consultation with the Council's Legal Section)
- Authorise a Caution (after consultation with the Council's Legal Section)
- Authorise prosecution action (after consultation with the Council's Legal Section)
- Other appropriate action as deemed necessary, including any combination of the above. For example where concerns are raised of a driver's standard of driving, the driver may be required to pass an appropriate driving standard assessment at the discretion of the Council. Failure to achieve a pass within a specified period of time will result in the suspension of the driver until such time as a pass is achieved. Where necessary for public safety a driver may be suspended immediately until such time as a pass is achieved.

For clarification, if the Senior Specialist Advisor passes the matter on for consideration by the Licensing Sub Committee a hearing will always be held regardless of the presence of the driver, proprietor or operator.

Suspension Vehicles

Vehicles must be kept in an efficient, safe, tidy and clean condition at all times. Compliance with the vehicle specification and conditions of this Guidance is essential and will be enforced by random vehicle inspections by the Council. Where it is found that any vehicle is not being properly maintained, a defect(s) notice will be served on the licence holder setting out the defect(s) and the required action.

Where there is a risk to public safety the further use of the vehicle will be suspended until the defects have been remedied. The suspension will not then be lifted until the vehicle has undergone a further test at a VOSR approved garage in the District, at the licence holder's expense, and the vehicle meets the requirements of this Guidance.

Drivers

The Council may exercise its discretion to suspend the operation of a driver's licence for a specified period at the discretion of the Senior Specialist Advisor.

Revocation

The Senior Specialist Advisor may revoke the licence. Ordinarily, any revocation is stayed pending the period for appeal expiring or in the case of an appeal the appeal being determined. Where necessary for public safety, the Senior Specialist Advisor may determine that a revocation takes immediate effect and is not stayed pending any appeal.

Refusal to Renew

As an alternative to revocation, the Senior Specialist Advisor may decide that the appropriate action, in a situation where the licence is shortly to expire, is to order that the licence shall not be renewed. The Senior Specialist Advisor may suspend the existing licence for the remainder of its licence period depending on the individual merits of the case.

Section 68 (Stop) Notices

An Authorised Officer or a Police Officer may serve notice in writing for a vehicle, or the taximeter affixed to such a vehicle, to be examined at a VOSR approved garage in the District at a time specified in the notice. This notice may only be served if there are concerns as to the condition of the vehicle or the accuracy of the taximeter.

In addition the vehicle licence may be suspended until such time as the Council's testing requirements have been complied with if it is deemed necessary for public safety. The suspension notice will remain in force until an Authorised Officer has issued written confirmation that the Council's testing requirements have been met.

If an Authorised Officer is not satisfied that appropriate action has been taken to allow the suspension notice to be withdrawn within a period of two months from the date of issue the vehicle licence will be deemed automatically revoked.

Cautions and Fixed Penalty Notices

In the interests of natural justice before a Caution or FPN is administered there must be sufficient evidence of guilt to give a realistic prospect of a conviction, the offender must admit the offence and the offender must understand the significance of the Caution or the FPN and give informed consent.

Where a person declines the offer of a Caution or a FPN, it will be necessary for the Council to consider taking alternative enforcement action. Whilst this would ordinarily mean prosecution this is not inevitable.

Prosecution

The decision to prosecute is significant as it may impact on the licence holder's future employability. Generally, the circumstances that may warrant a prosecution include, but are not limited to;

- Blatant or repeated disregard for legislation and/or this Guidance, particularly where the economic benefits for the breaches are substantial
- When there has been blatant and/or reckless disregard for the safety of passengers or other road users

Complaints against Drivers

All complaints will be fully investigated and will often involving the taking of statements from the complainant, driver and any witnesses. An Authorised Officer will consider all evidence and mitigating circumstances arising from the investigation before referring the matter to the Senior Specialist Advisor, if appropriate. The outcome of any complaint will be advised to the complainant in the form of a written response.

***Part 8: Equalities and Accessibility**

The Council is committed to social inclusion and ensuring a wide variety of opportunities are available particularly to those with mobility difficulties.

The Council requires all proprietors, drivers and operators to be compliant with the relevant provisions of the Equality Act 2010 and any subsequent legislation.

The Council will actively encourage the licensing of sufficient accessible vehicles and will maintain a designated list of wheelchair accessible vehicles in the District which can be found on the Council's website. The Council want to ensure that passengers in wheelchairs are better informed about the accessibility of vehicles in the District and are confident of receiving any assistance they require.

Point 12: Whilst the council 'encourages'... '...the licensing of sufficient accessible vehicles..' this does not go far enough to ensure that Lewes DC takes the matter of Disabled Access far enough. Consequently it is strongly recommended that a policy should be in place that would only allow a newly issued hackney carriage licence to be granted if a WAV (Wheelchair Accessible Vehicle) is presented.

Point 13: To ensure that Disabled Access is available to the public it is strongly recommended that the council introduces WAV requirement for Operators as a condition of licensing such as a percentage of WAV's according to the fleet size. It would not be unreasonable to expect a responsible Lewes Licensed Operator to have 20% WAV's on a fleet of 10+ vehicles.

Before a vehicle is placed on the designated list it must be capable of carrying a 'reference wheelchair' and more details on reference wheelchairs can be found on the Council's website.

The Council notes the duty on operators and drivers of designated wheelchair accessible vehicles to carry a passenger while in the wheelchair and not to make any additional charge for doing so. If the passenger chooses to sit in a passenger seat the driver shall carry the wheelchair and to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort. The driver will be responsible to assisting the passenger to get in and out of the vehicle and for loading the passengers luggage and/or wheelchair into and out of the vehicle.

The Council notes that the operator or driver hired by a disabled person who is accompanied by an assistance dog or by another person who wishes to be accompanied by a disabled person with an assistance dog should accept a booking, carry the assistance dog and allow it to remain with the passenger and not make an additional charge for doing so.

Drivers who, for medical reasons are unable to accept wheelchair passengers or assistance dogs are able to apply in writing to the Council for an exemption certificate. Such a certificate will only be issued on production of appropriate medical evidence. The exemption certificate, which must show the photograph of the driver, must be displayed in the vehicle at all times.

Part 9: Fares**Hackney Carriages**

The Council will consider the fare scales as and when requested to do so by the trade. Before setting the fares the Council will follow the appropriate procedures detailed in the 1976 Act.

When determining the level of fares, consideration will be given to what it is reasonable to expect the travelling public to pay as well as the need to give the drivers an incentive to provide a cost-effective service at the times it is needed.

Hackney Carriage fares, set by the Council, are a maximum and can be negotiated downwards by the hirer.

The fare for any journey that starts and ends within the District cannot exceed the metered fare based on the Council's maximum fare tariff. The meter should only be started when the passenger(s) is/are in the vehicle and the journey commences. The fare for any journey that starts or ends outside of the District can be negotiated prior to the commencement of the journey without using the meter.

The maximum fares currently prescribed by the Council are set out on the Council's website. A table of authorised fares will be provided to each hackney carriage licence holder, which must then be displayed in each vehicle so that it is easily visible to all hirers.

A hackney carriage driver must, if required by the passenger, provide a written receipt for the fare paid.

Private Hire Vehicles

The fare for a journey in a private hire vehicle must be agreed with the private hire operator at the time of booking. The driver should charge no more than the fare agreed with the operator at the time of booking.

The agreement between the hirer and the operator can either be for a fixed monetary sum, or an agreement that the fare will be calculated using the meter within the vehicle. In the case of a metered fare, the starting point for engaging the meter must be agreed at the time of booking.

A private hire driver must, if requested by the passenger, provide a written receipt for the fare paid.

Part 10: Licence Fees

Fee Structure

The legislation and established case law provides that licence fees should be sufficient to cover the costs of inspecting the vehicles, providing hackney carriage stands, and administering the control and supervision of hackney carriages and private hire vehicles. In simple terms, the Council can only set fees on a reasonable cost recovery basis and cannot make a profit from licence fees when analysed over a typical three-year cycle.

The fees currently payable for the grant and renewal of hackney carriage and private hire licences are set out on the Council's website. The fee structure is reviewed annually as part of the Council's budgetary process.

The Council will consult on the fees it intends to levy through a public notice procedure.

Payment

The Council is able to accept payment by debit or credit card, cheques, or BACS payments. Cheques must be payable to Lewes District Council.

The Council is unable to accept cash payments, save for exceptional circumstances.

Refunds and Duplicate Copies

In the case of any licence where the licence holder voluntarily surrenders their licence prior to the expiry date, the Council may make a refund in respect of the whole month/s of the unexpired portion of the licence fee.

In the case of a licence that has been suspended, revoked or otherwise ends early due to disciplinary matters, no refund will be made by the Council.

Where the Council receives a request for a duplicate copy of any previously issued licence, an appropriate fee will be paid to cover the associated administrative costs.

Part 11: Appeals

Appeals against the decisions of an Authorised Officer or Licensing Members may be made to the Magistrates' Court.

Any decision notifications will include detailed information on how to appeal and the applicable time limits.

Appendix 1: Conditions Private Hire Vehicles, Hackney Carriage and Specialist Vehicles

These conditions apply to all vehicles unless expressly stated.

Maintenance of Vehicle

The vehicle and all its fitting and equipment shall at all times when the vehicle is in use or available to hire be kept in a safe and clean condition.

All relevant statutory requirements including in particular those contained in the Motor Vehicle (Construction and Use) Regulations shall be fully complied with.

All vehicles shall undergo an inspection by a VOSR approved garage within the District every six months.

Identification Plate

The plate identifying the vehicle shall at all times be securely fixed to the outside on the rear of the vehicle in a conspicuous position in such a manner as to be easily removed by an Authorised Officer or Police Officer. On written application the Council may exempt certain specialist or executive vehicles from the need to display external plates, and operator identification.

***Signage and Advertising**

Hackney Carriage must be fitted with an illuminated external roof mounted sign. The sign may either display the word 'Taxi', or the words 'For Hire'. The roof sign and lettering shall be of an appropriate size to enable it to be clearly identifiable to the public. The roof sign must be switched off when the vehicles has been hired and illuminated when available for hire.

Point 14: All Lewes hackney carriage vehicles should display the wording 'Lewes District Council' on the roof sign to properly identify the vehicle as being licensed by the council. See 'Points Appendix 2'

Private Hire Vehicles must not carry a roof sign of any description or have any markings that give the impression that it is a hackney carriage. They must display Council approved signage on the vehicles stating that the vehicle is only able to undertake pre-booked journeys. Any signage or advertising on a private hire vehicle must not include the words 'taxi', 'cab', 'hackney carriage' or 'for hire' save for the word 'taxi' or 'cab' being part of the company name.

The proprietor shall cause to be affixed and maintained in the vehicle in a conspicuous position and in accordance with the directions of the Council any sign or notice which the Council may from time to time require.

No other signs will be permitted to be displayed anywhere on the vehicle without the written permission of an Authorised Officer.

Restricted first party advertising is allowed so long as the advertising material is limited to the metal surfaces on the front doors and the rear window, providing it does not cause an obstruction, the advertising material shall be non-reflective and nothing shall be advertised which may reasonably cause offence to any section of the community. The proprietor of any vehicle

displaying an advertisement that does not comply with this condition will be required to remove the offending advertisement and until it has been removed the vehicle's licence will be suspended.

No other advertising of any description is allowed on the vehicle.

Miscellaneous

No material alteration or change in the specification, design, condition or appearance of the vehicle shall be made without the approval of the Council at any time the licence is in force.

A suitable First Aid kit shall be provided and maintained in the vehicle at all times when in use or available for hire.

A suitable Fire Extinguisher which conforms to British and European standards shall be provided and maintained in the vehicle at all times when it is in use or available for hire.

A current insurance certificate or cover note must be displayed where it can clearly be seen by passengers.

The proprietor shall notify the Council in writing of any change of his address within seven days of such change taking place.

The proprietor shall within seven days disclose to the Council in writing details of any conviction, caution, FPN, civil injunction, or Acceptable Behaviour Contract imposed on him or if the proprietor is a company or partnership on any directors, company secretary or partners.

If the proprietor permits or employs any other person to drive the vehicle then before that person commences to drive the vehicle the proprietor shall cause that driver to deliver to him their private hire drivers or hackney carriage licence.

Any accident in a vehicle causing damage materially affecting the safety, performance or appearance of the vehicle or the comfort or convenience of person carried therein must be reported as soon as practicable and in any case within 72 hours of the occurrence.

Totally blacked out windows will not be permitted however partially blacked out windows may be allowed at the discretion of an Authorised Officer.

Appendix 2: Guidance on the Relevance of Convictions etc**General Principles**

The over-riding consideration for the Council is the promotion of the licensing objectives detailed in this Guidance and in particular public safety. By producing clear and transparent guidelines on the relevance of convictions the Council seeks to maintain the high standard of drivers, proprietors and operators.

The guidance details the Council's stance on the relevance of convictions etc in respect of applications for the grant of new licences, the renewal of existing licences and any existing licence holder convicted etc of an offence during the period of their licence will be subject to same criteria as though they were a new applicant. Therefore in circumstances where a new applicant would have their application refused, an existing licence holder would have their licence revoked. Thus any reference to applicant also applies to existing licence holders except where the Guidance specifically makes a distinction.

Existing licence holders should be aware that if the Council receives notification from the Police that they are being investigated for an offence that would preclude the grant of a licence their licence will be revoked with immediate effect. In the event that no charges are laid against the licence holder, the licence will ordinarily be reinstated for its original duration. In the event that the licence holder is found not guilty, the licence will ordinarily be reinstated for its original duration, save for any previous or ongoing concerns relating to the licence holder's ability to meet the 'fit and proper' test.

In those situations where a new applicant has been charged with an offence but is awaiting trial the decision of an application will be deferred until the trial has been complete or the charges withdraw. If an existing licence holder is charged the Council will decide what action to take in line with the Enforcement part of this Guidance.

If a Court has found an applicant guilty of an offence, that person cannot subsequently claim to the Council that they did not commit the offence. The applicant can, however, offer any mitigating circumstances relating to the offence that they wish the Council to consider.

For the purposes of this Guidance, the acceptance of a Caution or Fixed Penalty Notice will be treated in the same way as a conviction. Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. Any reference to a period free from conviction etc relates to the period commencing from either where a custodial sentence has been imposed from the end of the custodial period or in any other case from the date of conviction etc.

Notwithstanding the existence of this Guidance, each application will be determined on its own merits. Where it is necessary for the Council to depart substantially from this Guidance, clear and compelling reasons will be given for doing so.

Rehabilitation of Offenders Act 1974 (as amended)

Under the 1974 Act, criminal convictions can become spent after a certain period of time, and once spent, for many purposes, can be disregarded completely. The possibility of rehabilitation, and the length of time before rehabilitation occurs, depends on the sentence imposed and not the offence committed.

Despite the above general principles, the 1974 Act does not apply to applicants for drivers licences. This is because the driving of these vehicles is listed as a "regulated occupation" in relation to which questions may be asked as to the suitability of individuals to be granted a licence.

Although the 1974 Act does not prevent the Council from taking spent convictions into account, such convictions are only admissible in so far as they are relevant to the issue as to whether the applicant is a 'fit and proper person' to hold a licence.

History

The Council may take into account an applicant's history as a licence holder with this, or any other Council. It is recognised that matters which have not resulted in a criminal conviction can and will be taken into account by the Council. In considering whether or not a person is 'fit and proper' the Council may consider such matters as the applicant's complaint history, their compliance with this Guidance, their co-operation with Authorised Officers requests and any other reasonable matters.

DVLA Penalty Points

Drivers should provide a professional service to the public and must be aware of the safety of passengers and other road users at all times. Any traffic offence shows a lack of responsibility whilst driving either in terms of vehicle maintenance or the level of driving standards.

New Driver Applicants

Convictions or cautions for traffic offences will not automatically preclude an applicant from obtaining a licence, however, the number, nature and frequency of such offences will be considered.

In cases of less than six unspent penalty points on an applicant's DVLA driving licence, an application will usually be granted. A licence granted under these circumstances is likely to be issued together with a written warning as to future driving standards required and detailing the likely effect of further offences.

In cases of six to nine unspent penalty points on an applicant's DVLA driving licence, an application will not be granted until at least three years has elapsed since the completion of any sentence imposed.

In cases of ten or more unspent penalty points on an applicant's DVLA driving licence, an application will be refused.

Existing Drivers

In cases of six or more unspent penalty points on an existing driver DVLA driving licence the matter will be referred immediately to the Senior Specialist Advisor for consideration.

Major Traffic Offences

For the purposes of this section, major traffic offences include, but are not limited to:

- dangerous driving
- driving whilst disqualified
- failure to stop after an accident
- driving without valid insurance
- careless driving
- driving a vehicle with mechanical defectives (such as brakes, steering, tyres, etc.)

If the applicant has been convicted of one major traffic offence then a licence application will be refused until the applicant has completed a period of at least three years free from conviction.

If the applicant has been convicted of more than one major traffic offence then a licence application will be refused until the applicant has completed a period of at least seven years free from conviction.

Where the combination of offences are considered to be of increased risk to the public, a period longer than seven years free of conviction may be substituted by the Council dependant on the extent of the risk to the public.

If the applicant has been convicted of a combination of three or more offences of no valid insurance and/or driving whilst disqualified then the Council believes that person causes an unacceptable risk to public safety and a licence will be refused.

Where an applicant or existing licence holder fails to disclose motoring offences, even if they have been declared on previous applications or are spent, the Council will deal with this by way of the issuing a warning. However, if the Council determines that there was a premeditated intention to deceive, the matter will be considered as an offence of dishonesty and dealt with in accordance with that section of this Guidance.

'Totting up'

Where an applicant has been disqualified from driving by the Courts under the "totting up" procedure, the Council will refuse an application until there has been a period of five years free of relevant convictions. If the applicant has demonstrated to the Court "exceptional hardship" and avoided a driving disqualification, applications will still be refused until there has been a period of five years free of relevant convictions. The Council believe that the risk to the public is sufficient to maintain this consistent stance.

Major Traffic Offences Resulting in Death

The driving offences of causing death by dangerous driving, careless driving, driving under the influence of alcohol or drugs, or driving unlicensed, disqualified or uninsured, will be considered by the Council to be an unacceptable risk to public safety and an application will be refused.

Drunkenness

Separate consideration will be given to convictions for drunkenness whilst in charge of a vehicle as opposed to drunkenness whilst not in charge of a vehicle due to the differing risk to the public.

In Charge of a Motor Vehicle

The Council considers driving or being in charge of a vehicle whilst under the influence of alcohol or drugs as a serious offence causing a high element of risk to the public.

A single conviction for any alcohol-related driving offence will preclude an application from being granted for a period of seven years from the restoration of the DVLA driving licence.

More than one conviction for any alcohol-related driving offence represents an unacceptable risk to the public and an application will be refused.

Not in Charge of a Motor Vehicle

An isolated conviction for drunkenness not associated with driving or being in charge of a motor vehicle will not automatically preclude an application.

Where there is an isolated conviction for disorder and/or drunkenness a licence will normally be granted together with a verbal warning as to future driving standards detailing the likely effect of further offences.

More than two convictions for disorder and/or drunkenness will lead to refusal of an application until such time as a period of three years free of convictions.

Using a Hand Held Telephone or Hand Held Device whilst Driving

Where an applicant has a conviction for using a hand held mobile phone or a hand held device whilst driving will not be granted a licence until such time as a period of five years free of conviction.

Drug Offences

The Council considers all offences related to controlled substances a serious risk to the public.

An applicant with one conviction for any Class A drug related offence, including supplying or trafficking, will be required to show a period of ten years free of convictions.

An applicant with more than one conviction for any Class A drug related offence, including supplying or trafficking, will be considered an unacceptable risk to public safety and an application will be refused.

An applicant with a conviction for any Class B drug related offence, including supplying or trafficking, will be required to show a minimum period of five years free of convictions.

An applicant with a conviction for any Class C drug related offence, including supplying or trafficking, will be required to show a period of at least three years free of convictions.

In all these circumstances the applicant may be required by the Council to undertake drug testing at their own expense to demonstrate that they are not using controlled drugs.

In all cases, where an applicant has been medically classed as an addict, an application will be precluded until such time as a period of five years has elapsed since the completion of a recognised detoxification programme.

Sexual or Indecency Offences

For the purpose of this Policy, the following offences are considered to involve a high element of risk to the public and any application will be refused;

- rape
- indecent or sexual assault
- assault by penetration
- making, distributing or possession of child pornography
- trafficking and/or preparatory offences
- sexual offences involving children or vulnerable adults
- slavery

In addition the Council will not grant a licence to any applicant who is currently on the Sex Offenders Register or any other relevant barred list.

As drivers often carry unaccompanied and/or vulnerable people, any applicant with a conviction for any other sexual or indecency offence not listed above will be refused a licence until such time as they have been free of conviction for a period of ten years.

Violent Offences

The Council considers all violence related offences as a serious risk to the public. Offences of criminal damage and public order will be treated as violent offences for the purposes of this Policy.

An application will be refused where the applicant has been convicted of a crime which resulted on the death of another person or was intended to cause the death or serious injury of another person.

Where an applicant has a conviction for an offence of violence or connected with any offence of violence including but not limited to;

- any offence involving the possession of a firearm
- any terrorism-related offence
- racially aggravated grievous bodily harm or malicious wounding
- arson
- any offence that may be categorised as domestic violence
- violent disorder or riot

will be refused unless there has been a period of ten years free of conviction.

Where an applicant has a conviction for possession of a weapon (other than a firearm) related offence a licence will not be granted until at least seven years have elapsed since conviction.

Whilst an isolated conviction for a violent offence, other than those listed above, will not normally permanently preclude an application, the Council will have grave concern for public safety if an applicant has committed multiple violent offences. An application will normally be refused in cases where an applicant has two or more separate convictions for violent offences.

Dishonesty

Drivers are expected to be persons of trust since it is comparatively easy for dishonest drivers to defraud the public. As members of the public entrust themselves to the care of licensed drivers the Council considers offences involving dishonesty a serious risk to public safety.

An applicant that has been convicted of an offence related to dishonesty will be refused a licence until such time as they have been free of convictions for seven years.

Discrimination

Where an applicant has a conviction involving discrimination, of any form, a licence will not be granted until they have been free of convictions for seven years.

Hackney carriage and private hire offences

Where an applicant has a conviction for an offence concerned with hackney carriage or private hire activity for example the use of a radio scanner a licence will not be granted until they have been free of convictions for five years.

Other Offences and Special Circumstances

If the applicant has declared any other offences not specifically covered by this part of the Guidance or the specific circumstances of the application justify it the application may be referred to the Senior Specialist Advisor for determination in line with the principles of this Guidance.

Mitigation and/or Exceptional Circumstances

Where the Senior Specialist Advisor is considering whether an applicant meets the 'fit and proper' person test, the applicant will be entitled to provide them with written mitigation. The applicant may be requested to attend a meeting with the Functional Lead or the applicant may request such a meeting. Prior to attending the meeting, the applicant will be provided with a written report containing all the information necessary for the Senior Specialist Advisor to make his determination. The report will be provided to the applicant at least five working days prior to the meeting.

Appendix 3: Private Hire Operators Conditions**Records**

The operator shall keep a record of every booking of a private hire vehicle invited and accepted by him whether direct from the hirer or by undertaking the bookings at the request of another operator. The records shall be made available for inspection by an Authorised Officer or Police Officer upon request. The records entries must be made before the commencement of the journey and shall include;

- Date and time of the booking
- Time and date of the pickup point
- Details of the destination
- Name and contact details of the hirer
- Registration number of the vehicle
- Name of the driver allocated for the journey

All records shall be kept by the operator for a period of at least 12 months from the date of the journey.

The operators shall keep written records of the particulars of all vehicles operated by him which include the;

- Type, make, model, colour and engine size of the vehicle
- The date the vehicle was first licensed for private hire
- Vehicle registration number
- Number of seats for passengers
- Owner of the vehicle
- Valid certificate of insurance of the vehicle
- A valid Certificate of Compliance.
- A valid road fund licence
- Method of charging i.e. whether or not a meter is fitted
- Vehicle plate number.

The operator will securely retain a copy of the licences of all drivers (whether private hire or hackney carriage) engaged to work for them and make them available for inspection by an Authorised Officer or Police Officer upon request.

Display of Licence Plates

The operator shall ensure that the licence plates issued by the Council are affixed to such position as shall be approved by an Authorised Officer.

The Operator shall ensure that maintenance of such licence plates in clean and legible conditions and shall inform the Council immediately should it be lost or broken or become defaced.

Miscellaneous

The operator shall ensure that any staff they employ act in a civil and courteous manner at all times.

The operator shall ensure that a private hire vehicle which has been hired shall be in attendance at the appointed time and place unless delayed or prevented by sufficient cause.

The operator must not accept a booking by any person to hire a private hire vehicle unless the passenger or someone on his behalf previously requested the hiring by any means, for example telephone, email, text or personal call, to the licence holder.

The operator must not accept a request for hire (a booking) which has been communicated to them via a driver. For clarification, the operator must not accept a booking made by a driver on behalf of a potential customer where the person approached the driver in the street seeking to hire the vehicle.

The operator must ensure that none of his staff or agents tout for business on the street, touting in this contact means approaching any person in the street and asking if they want to book a vehicle.

The operator is required to undertake reasonable checks as to fitness or suitability of their employees or agents who take bookings.

The operator shall ensure that every driver engaged has obtained a private hire drivers licence obtained by the same Licensing Authority which issued the operator's licence. If any documents expire the operator must ensure that driver does not work until the documents have been submitted to the operator.

The operator may only operate from an address within the District they are licensed. Upon the grant of a licence the Council will specify the address from which the operator may operate.

The licence must be kept in the possession of the operator and must be provided when requested by an Authorised Officer or any Police Officer. In the event of loss or damage to this licence the Council must be informed immediately so that a replacement licence can be issued. The licence must not be altered or defaced in any way.

The operator must not operate more vehicles than the maximum number specified on their licence. If the number of vehicles they operate significantly increases during the period of their licence the operator shall apply to the Council for a variation and an amended licence fee (pro rata to reflect the increase) will apply for the remainder of their licence.

The operator shall keep clean, adequately heated, ventilated and lit any premises which the operator provides and to which the public have access whether for the purpose of booking or waiting. Any waiting area provided by the operator shall have adequate seating facilities.

The operator must not refuse a booking because the person wishing to make the booking proposes that an assistance dog is to travel with them. The operator must not make an additional charge for the carriage of a passenger's assistance dog.

The operator may only trade under this licence using one of the following, his name, the company's name, the trading name or one of the names which the licence holder included on the application form or another trading name provided that the operator notified the Council at least fourteen days prior to the intended change of name.

The operator must notify the Council in writing within seven days of the event occurring;

- Any change to the licence holders personal details including home address or if a company the registered address, contact telephone number or email address

- If the licence holder is charged with any criminal offence
- Any conviction, caution or FPN given to a person or in the case of a company any director or company secretary or any partner for any criminal offence.

The operator shall ensure that all drivers have a badge issued by the Council and that the driver wears the badge which is distinctly visible at all time whilst available for hire.

The operator shall notify the Council forthwith and in writing of any complaints, concerning a contract for hire from his business he reasonably considers the Council should be aware of. Such notification must include the action taken or proposed as a result of the complaint.

ADDITIONAL CONDITIONS

Point 15: Contact Telephone Number

The Operator must provide a local telephone number which is available to the public for enquiries, complaints or lost property. See **“Appendix Points”** for full details.

Point 16: Complaints

The Operator must respond to any complaints within a period of 24 hours. See **“Appendix Points”** for full details

Point 17: Lost property.

The Operator must make provision for the safe retention and collection of lost property.

Appendix 4: Right to Work

The Council is under a legal duty to ensure that driver and operator licences are only issued to applicants who have lawful immigration status and the right to work in the UK. By law, the Council cannot issue a licence to any applicant that does not satisfy this requirement.

All applicants will need to attend the Council Offices where an Authorised Officer will check their original valid documentation evidencing their right to work in the UK. The applicant must attend in person and bring evidence of their right to work in the UK. Only certain types of documentation are acceptable.

For applicants who are British Citizens

Need to provide a British passport confirming they are a British Citizen.

If they do not have a British passport they can produce any of the other documents contained within List A.

For applicants who are not British Citizens but have no restrictions on their right to work in the UK

Need to provide any of the other documents contained within List A.

For applicants who have restrictions on their right to work in the UK

Need to produce any of the documents contained within List B. If the documentation proves a right to work expires prior to the normal licence expiry date the licence will only be granted for the period the Council have proof of a right to work.

The Council will not accept a visa that confirms their right to reside in the UK but which is attached to an expired passport. The applicant will need to apply to the Home Office to obtain acceptable proof, such as a biometric residence permit. Once a valid application to the Home Office has been confirmed, a six month licence can be granted to allow time for the Home office to process the application.

An applicant must bring original documentation (not a photocopy) and it is the applicant's responsibility to make sure they can provide acceptable forms of documentation.

The Authorised Officer will check that the documentation is acceptable based on either List A or List B (depending on your circumstances), check that the document is an original and relates to the person providing it, and take a photocopy for Council's records.

If the documentation provided demonstrates that the applicant has a permanent right to work in the UK (from List A) they will not be required to produce documentation for future applications. In other cases, the applicant will be required to provide documentation when they next apply to renew their licence so their right to work can be verified again at that point in time.

List A

- (i) A passport showing the holder, or a person named in the passport as the child of the holder, is a British Citizen or a citizen of the UK and Colonies having the right of abode in the UK.
- (ii) A passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
- (iii) A Registration Certificate or Document Certifying Permanent Residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
- (iv) A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
- (v) A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
- (vi) A current passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
- (vii) A current Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- (viii) A full birth or adoption certificate issued in the UK which includes the name(s) of at least one of the holder's parents or adoptive parents, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- (ix) A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- (x) A certificate of registration or naturalisation as a British Citizen, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

List B

- (i) A current passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to do the type of work in question.
- (ii) A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to do the work in question.

- (iii) A current Residence Card (including an Accession Residence Card or a Derivative Residence Card) issued by the Home Office to a non-European Economic Area national who is a family member of a national of a European Economic Area country or Switzerland or who has a derivative right of residence.
- (iv) A current Immigration Status Document containing a photograph issued by the Home Office to the holder with a valid endorsement indicating that the named person may stay in the UK, and is allowed to do the type of work in question, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- (v) A Certificate of Application issued by the Home Office under regulation 17(3) or 18A(2) of the Immigration (European Economic Area) Regulations 2006, to a family member of a national of a European Economic Area country or Switzerland stating that the holder is permitted to take employment which is less than 6 months old together with Verification from the Home Office Evidence and Enquiry Unit.
- (vi) A Verification issued by the Home Office Evidence and Enquiry Unit to you, which indicates that the named person may stay in the UK because they have an in time application, appeal or administrative review and which is outstanding.

Appendix 5: Private Hire Drivers Conditions of Licence

The driver shall behave in a civil and orderly manner and shall take reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the licensed vehicle.

The driver shall be clean and tidy in appearance at all times and dressed smartly with long or short sleeved shirt or blouse and long trousers, tailored shorts or skirts. Suitable footwear for driving must be worn.

The driver shall ensure that the vehicle is presented in a clean and tidy condition for each journey.

The driver must carry assistance dogs when required unless they have a Certificate of Exemption from the Council.

The drivers of a designated wheelchair accessible vehicle shall to carry a passenger while in the wheelchair and not to make any additional charge for doing so. If the passenger chooses to sit in a passenger seat the driver shall carry the wheelchair and to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort. The driver will be responsible to assisting the passenger to get in and out of the vehicle and for loading the passengers luggage and/or wheelchair into and out of the vehicle. The driver must ensure that any occupied wheelchair being transported in a wheelchair accessible vehicle must be safely secured using the restraint system carried in the vehicle, provided such system is compatible with the wheelchair being transported.

A driver who has agreed to be in attendance at a certain time at a specified place or whose operators has informed them must be in attendance at a certain time and place shall unless delayed or prevented by some sufficient cause must so attend.

A driver must carry in the vehicle any luggage to which the passenger requests provided that it can be properly secured with the luggage constraints.

A driver must provide reasonable assistance in loading and unloading such luggage.

A driver must provide reasonable assistance in removing any luggage to or from of an entrance of any building or place the passenger may be taken up or set down.

A driver must provide reasonable assistance to any passenger in alighting or entering the vehicle.

The driver of a vehicle equipped with a taxi meter shall set the meter into operation at the point at which the hirer commences his journey unless the hirer pre-agrees a fare.

The driver shall at all time when acting as a private hire driver wear the badge issued by the Council in such a manner to be distinctly visible. The driver shall not lend the badge to any other person or cause or permit any other person to wear it.

The driver must not allow a passenger into their vehicle unless they have first confirmed that there is a booking in place for that passenger.

Where any of the following occur the driver must notify the Council in writing so that the notification is delivered to the Council within seven days;

- Any change to the driver personal details including home address, contact telephone number or email address
- If the driver is charged with any criminal offence
- Any Cautions or FPN given for any criminal offence
- If they change from one private hire operator to another

A driver shall not at any time permit the noise from any radio or sound system in the vehicle to be a source of annoyance or nuisance to any person, whether inside or outside the vehicle. The driver must turn off their radio/stereos if requested by a passenger.

The driver shall not between the hours of 23:30 and 07:00 sound his horn to notify the hire of his presence.

The driver shall not, without the consent of the hirer, convey any other person in the vehicle other than the hirer.

The driver shall not demand for any hirer a fare in excess of any previously agreed for that hirer between the hirer and the operator or if the vehicle is fitted with a taximeter and

there has been no previous agreement as to the fare the fare shown on the face of the taximeter.

A driver shall, if requested by the hirer, provide him with a written receipt for the fare paid.

A driver must supply on request his badge number or plate number to any person on request.

A driver stopped by an Authorised Officer or a Police Officer must produce their licence on demand.

The driver shall not wilfully or negligently cause or permit the vehicle licence plate to be concealed or allow the plate to be so defaced as to make any figure or information illegible.

The driver when hired to drive to a particular destination shall proceed to that destination by the shortest available route unless otherwise instructed by the hirer.

The driver must not cause or permit the vehicle to stand on a public road so as to suggest that it is plying for hire.

The driver shall not smoke in the vehicle.

The driver must not use a mobile phone whilst driving unless it is designed for hands free operation.

The driver shall not convey or permit to be conveyed any greater number of persons than the number specified on the vehicles licence.

The driver shall at all times shall carry a copy of these conditions in the vehicle and shall make them available upon request by the hire or any other passenger.

The driver must return forthwith all licence, badges and plate to the Council when the driver ceases to be licensed.

The driver must cease driving any private hire vehicle and contact the Council immediately if they know of any medical condition which may affect their driving ability or the health or safety of themselves or any passengers.

The driver shall ensure that he complies with the law and best practice in relation to seat belts in relation to children under the age of fourteen.

Appendix 6: Byelaw

LEWES DISTRICT COUNCIL

BYELAWS

Byelaws made under Section 68 of the Town Police Clauses Act 1847 and Section 171 of the Public Health Act 1875 by the Lewes District Council with respect to

hackney carriages in the district of Lewes.

Interpretation

1. Throughout these byelaws "the Council" means the Lewes District Council and "the District" means the district of Lewes.

Provisions regulating the manner in which the number of each hackney carriage corresponding with the number of its licence, shall be displayed

2. (a) The proprietor of a hackney carriage shall cause the number of the licence granted to him in respect of the carriage to be legibly painted or marked on the outside and inside of the carriage, or on plates affixed thereto.
 - (b) A proprietor or driver of a hackney carriage shall:
 - (i) not wilfully or negligently cause or suffer any such number to be concealed from public view while the carriage is standing or plying for hire;
 - (ii) not cause or permit the carriage to stand or ply for hire with any such painting, marking or plate so defaced that any figure or material particular is illegible.

Provisions regulating how hackney carriages are to be furnished or provided

3. The proprietor of a hackney carriage shall:
 - (a) provide sufficient means by which any person in the carriage may communicate with the driver;
 - (b) cause the roof or covering to be kept watertight;

- (c) provide any necessary windows and a means of opening and closing not less than one window on each side;
 - (d) cause the seats to be properly cushioned or covered;
 - (e) cause the floor to be provided with a proper carpet, mat or other suitable covering;
 - (f) cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;
 - (g) provide means for securing luggage if the carriage is so constructed as to carry luggage;
 - (h) provide an efficient fire extinguisher which shall be carried in such a position as to be readily available for use; and
 - (i) provide at least two doors for the use of persons conveyed in such carriage and a separate means of ingress and egress for the driver.
4. The proprietor of a hackney carriage shall cause the same to be provided with a taximeter so constructed, attached, and maintained as to comply with the following requirements, that is to say:-
- (a) the taximeter shall be fitted with a key, flag, or other device the turning of which will bring the machinery of the taximeter into action and cause the word "HIRED" to appear on the face of the taximeter;
 - (b) such key, flag, or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
 - (c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for the hire of the carriage by time as well as for distance in pursuance of the tariff fixed by the Council;
 - (d) the word "FARE" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon;
 - (e) the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage, and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring; and
 - (f) the taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

Provisions regulating the conduct of the proprietors and drivers of hackney carriages plying within the district in their several employments, and determining whether such drivers shall wear any and what badges.

5. The driver of a hackney carriage provided with a taximeter shall:-

- (a) when standing or plying for hire, keep the key, flag or other device fitted in pursuance of the byelaw in that behalf locked in the position in which no fare is recorded on the face of the taximeter;
- (b) before beginning a journey for which a fare is charged for distance and time, bring the machinery of the taximeter into action by moving the said key, flag or other device, so that the word "HIRED" is legible on the face of the taximeter and keep the machinery of the taximeter in action until the termination of the hiring; and
- (c) cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring which is between half an hour after sunset and half an hour before sunrise and also at any other time at the request of the hirer.

6. A proprietor or driver of a hackney carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.
7. The driver of a hackney carriage shall, when plying for hire in any street and not actually hired:-
 - (a) proceed with reasonable speed to one of the stands appointed by the Council pursuant to Section 63 of the Local Government (Miscellaneous Provisions) Act 1976;
 - (b) if a stand, at any time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;
 - (c) on arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so as to face in the same direction; and
 - (d) from time to time when any other carriage immediately in front is driven off or moved forward cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward.
8. A proprietor or driver of a hackney carriage when standing or plying for hire, shall not make use of the services of any other person for the purpose of importuning any person to hire such carriage.
9. The driver of a hackney carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
10. The proprietor or driver of a hackney carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.
11. A proprietor or driver of a hackney carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.
12. If a badge has been provided by the Council and delivered to the driver of a hackney carriage he shall, when standing or plying for hire, and when hired, wear that badge in such position and manner as to be plainly visible.
13. The driver of a hackney carriage so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the carriage:
 - (a) convey a reasonable quantity of luggage;
 - (b) afford reasonable assistance in loading and unloading; and
 - (c) afford reasonable assistance in removing it to or from the entrance of any building, station or place at which he may take up or set down such person.

Provisions fixing the rates or fares to be paid for hackney carriages within the district, and securing the due publication of such fares.

14. The proprietor or driver of a hackney carriage shall be entitled to demand and take for the hire of the carriage the rate or fare prescribed by the Council, the rate or fare being

calculated by distance and time unless the hirer express at the commencement of the hiring his desire to engage by time.

Provided always that where a hackney carriage furnished with a taximeter shall be hired by distance and time the proprietor or driver thereof shall not be entitled to demand and take a fare greater than that recorded on the face of the taximeter, save for any extra charges authorised by the Council, which it may not be possible to record on the face of the taximeter.

15. (a) The proprietor of a hackney carriage shall cause a statement of the fares fixed by council resolution to be exhibited inside the carriage, in clearly distinguishable letters and figures.
- (b) The proprietor or driver of a hackney carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

Provisions securing the safe custody and redelivery of any property accidentally left in hackney carriages and fixing the charges to be made in respect thereof.

16. The proprietor or driver of a hackney carriage shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the carriage for any property which may have been accidentally left therein.
17. The proprietor or driver of a hackney carriage shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed to him:-
- (a) carry it as soon as possible and in any event within 48 hours, if not sooner claimed by or on behalf of its owner, to a police station in the district and leave it in the custody of the officer in charge of the office on his giving a receipt for it; and
- (b) be entitled to receive from any person to whom the property shall be re-delivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to the police station in the district, whichever be the greater) but not more than five pounds.

Penalties

18. Every person who shall offend against any of these byelaws shall be liable on summary conviction to a fine not exceeding Level 2 on the Standard Scale and in the case of a continuing offence to a further fine not exceeding two pounds for each day during which the offence continues after conviction therefor.

Repeals

19. The byelaws relating to hackney carriages which were made by the Lewes District Council on the 12 day of January 1995 and which were confirmed by the Secretary of State for Transport on the 14 day of March 1995 are hereby repealed.

GIVEN under the COMMON SEAL of LEWES DISTRICT COUNCIL this Twenty-second day of February 2001 in pursuance of a Resolution of the Council passed on the Twenty-first day of February 2001

THE COMMON SEAL of
LEWES DISTRICT COUNCIL was
hereunto affixed in the presence of:-

LS
27/01

C. F. W. Bailey
Senior Solicitor

The foregoing byelaws are hereby
confirmed by the Secretary of State
and shall come into force on the
11th day of April 2001

J. M. E. Rogers 28.03.01
Signed by authority of the Secretary of State

Link to Hackney Carriage Byelaw is [here](#) or can be viewed on www.lewes-eastbourne.gov.uk and search for byelaws.

Lewes District Council Licensing Consultation September 2018

Response from Uber

Overview

Thank you for providing us with the opportunity to respond to the Council's consultation on proposed changes to the Private Hire and Hackney Carriage policy and conditions.

Uber welcomes the opportunity to contribute to Lewes District Council's consultation on Private Hire Vehicles and Hackney Carriages. We believe that local licensing requirements should be regularly reviewed, so are happy to be involved in the current consultation.

Please find our response below—if you would like to discuss any of the points further please don't hesitate to contact me.

The four objectives

We strongly agree with the four proposed objectives, namely:

- To ensure the safety and welfare of the public
- To encourage environmental sustainability
- To ensure an efficient and effective Hackney Carriage and Private Hire provision in the district
- To monitor and improve standards of services in the trade

On maximum ages of newly-licensed vehicles

Uber is keen to support vehicle licensing policies that centre on reducing vehicle emissions and maintaining safety standards.

In order to future-proof policy and process, we would suggest standardising age requirements for vehicles at a level that is reasonable but which ensures that (for example) cars older than eight years are not able to be licensed for private hire, or vehicles must meet certain emission standards.

On lowering the requirement for the vehicles to 1000cc to improve air quality

Following on from the previous point re age of vehicles, we would again focus on emissions standards, particularly as enforcing requirements based on engine capacity does not allow councils the ability to license electric vehicles. For example, Birmingham City Council do not license EVs as they have a requirement not to license any car with an ICE smaller than 1600 cc.

On mandatory CCTV

As there is not enough evidence to date to warrant mandatory CCTV in all taxis, Uber is open-minded about its widespread adoption. However we are open to supporting further inquiries into the use of CCTV in taxis, including sharing anonymised, aggregated data to trusted third parties to run analyses on the impact on public safety that CCTV may provide over other options.

Arguments against CCTV to date often centre around the cost to driver—it can significantly increase the cost of a private hire vehicle licence by up to £550 for existing (and aspiring) private hire drivers. This requirement is beyond the norm seen elsewhere in the majority of other cities, and the significant cost impact could potentially act as an incentive for potential applicants to apply for a licence elsewhere.

The DfT Best Practice Guidance is clear that a balance must be struck between the potential for CCTV systems to detect or prevent crime versus other less expensive systems that offer similar safety features. It also advises that expensive requirements such as CCTV are considered carefully; “Local licensing authorities will...want to be sure that... the cost of a requirement in terms of its effect on the availability of transport to the public is at least matched by the benefit to the public, for example through increased safety.”

Rather than mandating CCTV installation, we recommend Lewes District Council consider an optional CCTV policy for private hire, an approach taken by many other Councils. This is consistent with the recent ICO code of practice, and also with the DfT guidance which states “Local licensing authorities may not want to insist on such measures [as CCTV], on the grounds that they are best left to the judgement of the owners and drivers themselves.” This approach would allow drivers that value the perceived added protection from CCTV to pay for it, and those that benefit from other innovative technology and safety features to not incur the cost. Councils following this approach often have agreed installation guidelines to ensure that minimum standards are met.

On approved vehicle specification lists

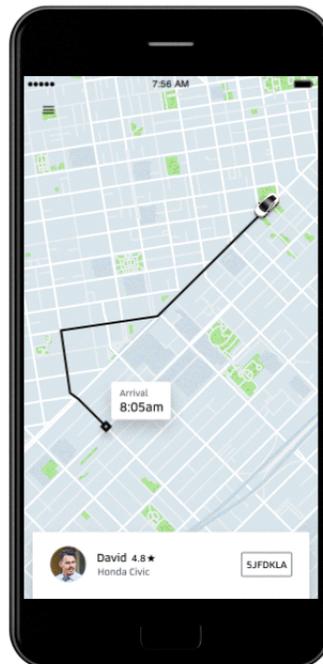
We believe that drivers would find a list such as this to be very useful.

On adopting door signs across PHVs and Hackney Carriages

Uber’s view is that it is possible for passengers to be able to identify PHVs without additional livery. At Uber, we have shown how technology can raise public safety standards. We also believe that technology has in many respects usurped the safety benefits of traditional elements of signage and that some of these elements can be revised to better serve and protect both passengers and drivers. The requirement for high visibility signage on vehicles can also act as a deterrent for new drivers entering the industry, especially those that are looking to work on a part-time or infrequent basis.

Providing information to passengers

One of the most evident ways we have improved safety is via the information we provide passengers in their app. Before their vehicle arrives, the passenger has access to the make, model, colour and vehicle registration mark of the car; the driver's name, picture and the parties' anonymised contact details are exchanged. Furthermore, the passenger has the ability to see where their vehicle is in real time via the map on their phone. These features allow a passenger to more accurately identify and connect with their driver than by relying on recognising the branding from the vehicle's signage.



It is worth noting that following Northern Ireland's Department of Infrastructure recent change of their conditions on vehicle signage (moving from high visibility operator signage to more discreet signage), Uber observed a drop in the number of passengers attempting to get into the wrong vehicle.

Given that every private hire journey is pre-booked, all operators should be able to provide these specific driver/vehicle details (via phone, text, email, app) before every journey (with the potential exception of driver picture and live map). As a requirement, this would enhance the information provided to passengers and improve public safety.

Uber recommends that the following information be mandatory for an operator to provide upon a pre-booked journey;

- Vehicle make/model
- Vehicle registration mark (VRM)
- Driver's name
- A way to contact the driver allocated to the booking

Signage abets plying-for-hire

Plying-for-hire is a challenge to the industry that negatively impacts drivers, passengers, operators and enforcement officers. Not only does it create friction between the hackney and private hire trades, it represents a safety risk to vulnerable passengers.

Highly visible signs on private hire vehicles, which identify them as such may have the unintentional effect of increasing the incidence of plying-for-hire, in that passengers may assume that the trip is legal and legitimate due to the presence of the signage.

If passengers have been provided with the aforementioned driver/vehicle details, there should be no reason to require operator-branded signage to assist with the identification of the vehicle.

Furthermore, it is much harder for a bad actor to reproduce a car's make/model or vehicle registration mark than it is to have an operator's door sign fraudulently printed.

Uber would recommend that the consultation consider the signage requirements for Transport for London's Private Hire vehicle conditions. TfL's more discreet signage requirements appear to correlate with a reduction of plying-for-hire cases.

Liaising with enforcement

There are clear reasons why enforcement agencies need to readily identify whether a vehicle is a licensed Private Hire vehicle.

Technology is making this process more efficient and comprehensive. Today, many agencies are using apps themselves to allow both officers and members of the public to check this data for themselves in real time. For example the Dublin driver check app allows anyone to check whether a vehicle and driver are appropriately licensed. A similar online licence checker has been launched for TfL-licensed drivers, vehicles, and operators.

Importantly, the unique identifiers for these databases and systems are: the vehicle registration mark, plate number, and if known, the driver's badge number. It is the vehicle registration mark, which is most useful to differing agencies and provides greater access to information for officers – as opposed to the driver call sign which is currently a requirement for signage, and delegated by each operator.

Conclusion

Uber is very happy to share learnings from its experiences elsewhere in support of policy updates. We would love to continue building a positive relationship with your team, prioritising public safety while maximising the efficiency of cars on the road for long-term gains in future mobility.

I thank you for your consideration of this submission. We would be more than happy to discuss in further detail if that would be of benefit.

Best wishes,

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