



**Notice of a public meeting of
Licensing & Regulatory Committee**

To: Councillors Mason (Chair), Wells (Vice-Chair), Barker, S Barnes, Galvin, Hook, Hunter, Melly, D Myers, Norman, Orrell, Pearson, Wann, Warters and D'Agorne

Date: Monday, 22 February 2021

Time: 5.30 pm

Venue: Remote Meeting

AGENDA

1. Declarations of Interest

At this point in the meeting, Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

2. Minutes (Pages 1 - 16)

To approve and sign the minutes of the meetings held on 25 September 2020 and 17 November 2020.

3. Public Participation

At this point in the meeting members of the public who have registered to speak can do so. Members of the public may speak on agenda items or on matters within the remit of the committee.

Please note that our registration deadlines have changed to 2 working days before the meeting, in order to facilitate the management of public participation at remote meetings. The deadline for registering at this meeting is at 5.00pm on Thursday 18 February 2021.

To register to speak please visit www.york.gov.uk/AttendCouncilMeetings to fill out an online registration form. If you have any questions about the registration form or the meeting please contact the Democracy Officer for the meeting whose details can be found at the foot of the agenda.

Webcasting of Remote Public Meetings

Please note that, subject to available resources, this remote public meeting will be webcast including any registered public speakers who have given their permission. The remote public meeting can be viewed live and on demand at www.york.gov.uk/webcasts.

During coronavirus, we've made some changes to how we're running council meetings. See our coronavirus updates (www.york.gov.uk/COVIDDemocracy) for more information on meetings and decisions.

- 4. Renewal of a Sex Establishment Licence for Ziggy's (Upstairs), 53-55 Micklegate, York, YO1 6LJ** (Pages 17 - 68)
This report seeks Members determination of an application to renew a Sex Establishment Licence for a sexual entertainment venue which has been made under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 3 Control of Sex Establishments in respect of Ziggy's (Upstairs), 53-55 Micklegate, York, YO1 6LJ.
- 5. Update on underage sales enforcement activity** (Pages 69 - 74)
This report informs Members of the activity undertaken to prevent illegal sales of age restricted products.
- 6. Taxi Licensing Policy** (Pages 75 - 130)
This report advises Members of the Department for Transport (DfT) 'Statutory Taxi and Private Hire Vehicle Standards' (the Standards) and changes that are required to the Taxi Licensing Policy to implement the recommendations within the Standards.
- 7. Work Plan** (Pages 131 - 132)
To consider the committee work plan for the remainder of the municipal year.

8. Urgent Business

Any other business which the Chair considers urgent under the Local Government Act 1972.

Democracy Officer:

Name: Angela Bielby

Contact Details:

- Telephone – (01904) 552599
- E-mail – a.bielby@york.gov.uk

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 (01904) 551550

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City of York Council

Committee Minutes

Meeting	Licensing And Regulatory Committee
Date	25 September 2020
Present	Councillors Mason (Chair), Wells (Vice-Chair), Galvin, Hook, Hunter, Melly, D Myers, Norman, Orrell, Pearson, Kilbane And D'Agorne
Apologies	Councillors Barker, Cuthbertson And Warters

41. **DECLARATIONS OF INTEREST**

Members were invited to declare any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests that they might have in respect of business on the agenda. No interests were declared.

42. **MINUTES**

Resolved: That the minutes of the meeting held on 18 March 2020 be amended to state that Members not listed as present at the meeting were unable to attend due to COVID-19 restrictions reducing the number of people able to be in a meeting room whilst observing social distancing.

43. **PUBLIC PARTICIPATION**

It was reported that there had been five registrations to speak on Agenda Item 4 'Taxi Licensing Public Consultation - vehicle Licences' at the meeting under the Council's Public Participation Scheme.

Bernie Flanagan (private hire driver and York Resident) noted drivers awareness of responsibilities in relation to air quality. He noted that the policy for York missed out on out of town drivers plying for trade in York and noted the need to see this in terms of the COVID-19 crisis and economic crisis. He expressed concern regarding the affordability of suitable lower emission larger vehicles (8-9 seater). He felt that drivers who had invested in Euro 6 vehicles should be given a longer grace

period and he added that the low emission taxi scheme did not support drivers.

David Hay (York Resident) noted that the COVID-19 impact would turn into a major economic crisis the following year. He expressed concern that there has been no correspondence from the council regarding the changes to the policy. He suggested that the council should lead by example by having its own fleet change to low emission vehicles. He suggested that the questions in the consultation had not been open. He noted the unfair nature of out of town vehicles licenced by other authorities being able to operate in York.

Mags Green (Resident, Private Hire Driver, Member of York Private Hire Association (YPHA) the trade had been hit hard by the pandemic in York and the cost to them as a trade to renew vehicles was a stretch if a proposal agreed the trade would decline, there would be a loss of revenue to the council and this would also be impacted by Wolverhampton licenced vehicles and out of town drivers. She raised concern about wheelchair accessible vehicles were not readily available and she suggested that a grant scheme be made available to help the taxi trade to go green.

Neil Rowley (Resident, Private Hire Driver, Secretary of York Private Hire Association (YPHA) noted the effect of producing electric vehicles and the manufacture of their batteries on global warming. He suggested that the use of electric vehicles penalised drivers taking customers on long distance journeys, and he expressed concern regarding charging infrastructure in the region. He also explained the difficulties that drivers would have in charging their vehicles at home.

The speakers were asked what the impact of the pandemic was on the trade. Mr Flanagan noted that the effect of the pandemic on private hire trade was that business had been decimated. He noted that there were a number of small businesses not eligible for the government support schemes. Mr Rowley was asked and explained that there was a 40-50% loss of business early stages of the pandemic and this was currently 75%.

Ian Clish (York Resident, Private Hire Driver, Member of York Private Hire Association (YPHA) noted that for the foreseeable future there was no stock of 8 seater electric hybrid vehicles to meet the needs of the policy. He noted the mental health and

economic effects on drivers because of COVID-19, adding that to introduce changes now would not be practical. He noted that he was in agreement regarding electric and hybrid vehicles and highlighted that Wolverhampton licensed drivers and out of town drivers also impacted York licensed drivers.

44. TAXI LICENSING PUBLIC CONSULTATION - VEHICLE LICENCES

Members considered a report that reported back on a public consultation with the trade and taxi users following the resolution to “review the existing policy on the issue of hackney carriage vehicle licences and report back to Members after a public consultation with the trade and taxi users” at Licensing and Regulatory Committee on 16 July 2018. Annex 1 of the report detailed the breakdown of euro standards in existing fleet, Annex 2 detailed the Taxi Incentive Scheme, Annex 3 detailed vehicle types and Annex 4 outlined the results following public consultation.

The Head of Public Protection updated Members on the consultation responses and outlined the two options available which were as follows (Option 1 was the recommended option):

Option 1

- i) To continue with the current restriction on numbers of hackney vehicle licences and ask Officers to commission a formal ‘unmet demand’ survey during 2021 to establish whether there continues to be significant demand for taxis which is unmet;
- ii) Recommend to the Council’s Executive that they amend the Taxi Licensing Policy and conditions with regards to the type of hackney carriage and private hire vehicles that will be licensed by the Council in the future as detailed in paragraph 25 a), b), c) and d).
- iii) To include a more detailed review of the use of taxi ranks as part of the unmet demand survey.

Option 2

Take an alternative course of action such recommending to the Executive that the current restriction on hackney carriage vehicles be lifted and to keep the existing licensing conditions

with regards to the type of hackney carriage and private hire vehicles that are licensed in future.

The Public Protection Manager and the Head of Programmes and Smart Place were in attendance to answer questions. In answer to questions raised, along with the Head of Public Protection they clarified:

- That there was an electric vehicle public charging strategy by example, the super rapid chargers in Dundee had been very successful with the licensed trade.
- The location of the fast and rapid electric charging points in the city
- That the technology for electric charging was moving very rapidly and the government for the banning of diesel and hybrid cars may come forward
- With regard to the proposed new emissions and age policy (detailed at paragraph 25 of the report), the new hackney carriage vehicles licences would only be issued to fully electric wheelchair accessible vehicles and plug in electric petrol hybrid wheelchair accessible vehicles. From January 2021, new private hire licences would only be issued to fully electric vehicle, plug in electric petrol hybrid vehicles, petrol hybrid vehicles (Euro 6 class or better (less than 7 years old) and wheelchair accessible vehicles – Euro 6 diesel/petrol or better (less than 7 years old).
- There was a need to consult with taxi drivers in terms of what they required in respect of charging facilities, for example what was required in terms of inductive charging
- In relation to out of town drivers, the Home Office had stated that people could leave locked down areas for work.
- In relation to longer journeys, the private charging networks along major roads was robust and was increasing exponentially. Nationally, the network was increasing in quality. Regionally, the council was working with the Local Enterprise Partnership (LEP) and County Councils on locations for electric vehicle charging.
- It was lawful for drive out of town taxis into York and journeys could be subcontracted to a firm from another authority. It was noted that other authorities did have age restrictions on their vehicles.
- Larger low emission vehicles were expensive at circa £50,000 and the charges for these would be passed onto customers.

- With regard to the consultation response, the median response regarding the age of vehicles was 8 years and 7 years was the highest standard and ensured that the vehicles being brought in were Euro 6.
- The trade concerns regarding COVID-19 had been included in the policy which was the reason for the three year lead in time.
- York was a leader in air quality and regarding its own fleet was looking to replace it with lighter vehicles.

[The meeting adjourned from 19:01 until 19:09]

- The Committee could make recommendations to the Executive about looking into the feasibility of providing incentives to the trade. It was noted that there were incentives available from the government for example £5000 towards an electric vehicle and £3000 off a hybrid vehicle.
- Concerning the consultation responses there had been 70 responses from taxi drivers that was 30% of the trade and didn't say how many were in favour of the proposals. The consultation process was outlined to Members.
- In terms of public charging facilities, the authority was confident that charging would be robust and that it would be able to support the fleet post COVID-19.
- Unmet demand surveys could be commissioned as required and a survey had not been undertaken at present as this would not be reflective of the situation.

During debate a number of Members expressed concern regarding the timescales for the policy as a result of the impact of the COVID-19 pandemic.

Cllr Galvin moved an amendment to Option 1 Section 2. This was seconded Cllr Melly. Following a unanimous vote it was:

Resolved:

That Members take into consideration the results of the consultation and other matters highlighted in the report and approve amended Option 1 of this report, namely:

- i) To continue with the current restriction on numbers of hackney vehicle licences and ask Officers to commission a formal 'unmet demand' survey during

2021 to establish whether there continues to be significant demand for taxis which is unmet;

- ii) Recommend to the Council's Executive that they amend the Taxi Licensing Policy and conditions with regards to the type of hackney carriage and private hire vehicles that will be licensed by the Council in the future as detailed in paragraph 25 a), b), c) and d) with a note to Executive to take the current economic situation and impact on the taxi trade into account when implementing the changes.
- iii) To include a more detailed review of the use of taxi ranks as part of the unmet demand survey.

Reason:

- i) To enable the Council to carry out an independent survey on restricting hackney carriage vehicle licences, while taking into consideration the impact of the Coronavirus pandemic in 2020.
- ii) Ensure a more environmentally friendly and modern hackney carriage and private hire fleet in the city in response to the declared climate emergency and continuing desire to improve air quality.
- iii) To better inform any decision around the number and location of ranks.

45. WORK PLAN

Members considered the committee's work plan for the current municipal year.

Resolved: That the Democracy Officer work with the Chair and Officers to update the work plan and circulate to the Committee.

Reason: To ensure that the committee has a planned schedule of work for the year.

46. URGENT BUSINESS

The Chair noted the impact of COVID-19 on licensed premises and highlighted the update that had circulated to the Committee.

A member raised concern about the cleanliness of out of town drivers. The Head of Public Protection advised that it was lawful for out of town drivers to travel to York for work. He advised that the Director of Public Health was mindful of the controls in place for licensed vehicles.

Cllr A Mason, Chair

[The meeting started at 5.30 pm and finished at 7.52 pm].

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Meeting	Licensing & Regulatory Committee
Date	17 November 2020
Present	Councillors Mason (Chair), Barker, S Barnes, Galvin, Hook, Hunter, Melly, D Myers, Norman, Orrell, Pearson, Warters and D'Agorne
Apologies	Councillor Wells

Election Of Vice Chair For The Meeting

Due to Cllr Wells, Vice Chair giving apologies for the meeting, there was a requirement to elect a Vice Chair for the meeting. Cllr Melly nominated Cllr Myers as Vice Chair for the meeting. This was seconded by Cllr Norman. Following a unanimous vote in favour it was:

Resolved: That Cllr Myers be elected as Vice Chair for the meeting.

Reason: In order that there be a Vice Chair for the meeting.

47. Declarations Of Interest

Members were invited to declare any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests that they might have in respect of business on the agenda. None were declared.

48. Minutes

Resolved: That the minutes of the meeting held on 25 September 2020 be amended to reflect the timescales agreed by Members in resolution (ii) of minute 44 [Taxi Licensing Public Consultation - Vehicle Licences].

49. Public Participation

It was reported that there had been one registrations to speak on Agenda Item 6 'Review of a Private Hire Operators Licence –

Mohammed Iqbal t/a York Cars (52/2016) at the meeting under the Council's Public Participation Scheme.

Will Swords spoke on behalf of a number of members of York's taxi trade. He asked that Members approve Option 1, to revoke the licence in accordance with section 62(1) of the Local Government (Miscellaneous Provisions) Act 1976. In response to questions from Members he explained that he was speaking on behalf of a number of different members of the taxi trade who had found common ground in their view on the matter.

50. Renewal Of Sex Establishment Licence For Black Orchid, 3-5 Toft Green, York, Yo1 6jt

Members considered a report seeking determination of an application to renew a Sex Establishment Licence for a Sexual Entertainment Venue (SEV) which had been made under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 3 Control of Sex Establishments in respect of Black Orchid, 3-5 Toft Green, York, YO1 6JT York.

The Licensing Manager advised that the application was for the renewal of a Sex Establishment Licence in line with Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by Section 27 of the Policing and Crime Act 2009, which allows local authorities to regulate lap dancing clubs and similar venues. She outlined the report and annexes, noting the grounds for refusal of which there were no mandatory grounds for refusal. She outlined the options available to Members in determining the application. She was asked and clarified that the premises had on sales provision only. She explained that the premises had operating for a number of years under a Sex Establishment Licence and the operating hours were approved by the Committee a number of years ago as part of the renewal of that licence.

The Licensing Manager explained that the Premises Licence and Sex Establishment Licence were separate licences but worked together. She added that that the Sex Establishment Licence could work outside the hours of the Premises Licence if other authorisation were in place such as temporary event notices. She was asked and clarified that advertising material for the premises had been approved by the Committee. There were no questions from the Committee for the applicant.

By virtue of paragraphs 10, 12 and 13 of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended), the Committee had the following options available to them in making their decision:

- Option 1 Grant a renewal of the licence as requested.
- Option 2 Renew the licence with modified/additional conditions imposed by the licensing committee.
- Option 3 Refuse the application for renewal on one of the mandatory grounds or on one or more of the discretionary grounds within paragraph 12 to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).

Cllr Melly then moved and Cllr Barker seconded approval of the renewal (option 1). In accordance with the revised Standing Orders, a named vote was taken with the following result: Cllrs Barker, Barnes, D'Agorne, Galvin, Hook, Hunter, Melly, Myers, Norman, Orrell, Pearson, Wann, Warters and Mason voted for the motion. The motion was therefore carried and it was

Resolved: That, in accordance with Option 1, Members grant a renewal of the licence as requested.

Reason: To consider renewal of the sex establishment licence as required by the legislation.

51. Renewal Of Sex Establishment Licence For The Adult Shop, 70b Gillygate, York, Yo31 7eq

Members considered a report seeking determination of an application to renew a Sex Establishment Licence for a Sex Shop which had been made under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 3 Control of Sex Establishments in respect of the Adult Shop, 70B Gillygate, York.

The Licensing Manager advised that the application was for the renewal of a Sex Establishment Licence in line with Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by Section 27 of the Policing and Crime Act 2009, which allows local authorities to regulate lap dancing clubs and

similar venues. She outlined the report and annexes, noting the grounds for refusal of which there were no mandatory grounds for refusal. She outlined the options available to Members in determining the application. She was asked and clarified that officers had not had the chance to visit the premises this year due to the COVID-19 lockdown.

By virtue of paragraphs 10, 12 and 13 of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended), the Committee had the following options available to them in making their decision:

- Option 1 Grant a renewal of the licence as requested.
- Option 2 Renew the licence with modified/additional conditions imposed by the licensing committee.
- Option 3 Refuse the application for renewal on one of the mandatory grounds or on one or more of the discretionary grounds within paragraph 12 to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).

Cllr Barker then moved and Cllr Melly seconded approval of the renewal (option 1). In accordance with the revised Standing Orders, a named vote was taken with the following result: Cllrs Barker, Barnes, D'Agorne, Galvin, Hook, Hunter, Melly, Myers, Norman, Orrell, Pearson, Wann, Warters and Mason voted for the motion. The motion was therefore carried and it was

Resolved: That, in accordance with Option 1, Members grant a renewal of the licence as requested.

Reason: To consider renewal of the sex establishment licence as required by the legislation.

52. Review Of A Private Hire Operators Licence – Mohammed Iqbal T/A York Cars (52/2016)

Members considered a report seeking determination of a review of a Private Hire Operators Licence in respect of Mr Mohammed Iqbal t/a York Cars (52/2016). Under section 62(1) of the Local Government (Miscellaneous Provisions) Act 1976, an operator's

licence may be suspended or revoked on any of the following grounds:-

- (a) any offence under, or non-compliance with, the provisions of this Part of this Act;
- (b) any conduct on the part of the operator which appears to the district council to render him unfit to hold an operator's licence;
- (c) ... or
- (d) any other reasonable cause.

In coming to their decision, Members took into consideration all the evidence and submissions that were presented, and determined their relevance to the issues raised including:

1. The papers before it, including Mohammed Iqbal's statement and Proposed Undertakings to City of York Council (both dated 12 November 2020).
2. The Head of Public Protection's report and the oral representations by Mr Leo Charlambides (Counsel on behalf of Mr Boxall) at the meeting. This included witness statements from City of York Council Officers: Matthew Boxall, Vicky Vint, Nigel Woodhead, Angela Ruane and Alfie Thompson
3. The oral representations by Mr Gerald Gouriet QC, Counsel on behalf of Mr Iqbal.

In respect of the review of the private hire operator's licence, having regard to the above evidence, the Committee considered the steps which were available to them to take under Section 62(1) of the Local Government (Miscellaneous Provisions) Act 1976:

Option 1 – Revoke the licence in accordance with section 62(1) of the Local Government (Miscellaneous Provisions) Act 1976. This option was approved.

Option 2 – Suspend the licence in accordance with section 62(1) of the Local Government (Miscellaneous Provisions) Act 1976. This option was rejected.

Option 3 – Take no further action. This option was rejected.

Reasons for the decision

After carefully reviewing the information presented to them and oral representations by all the parties, the Committee debated the matter.

Cllr Warters then moved option 1 and Cllr Melly seconded this. In accordance with the revised Standing Orders, a named vote was taken with the following result:

Cllrs Barker, Barnes, D'Agorne, Galvin, Hook, Hunter, Melly, Myers, Norman, Orrell, Pearson, Wann, Warters and Mason voted for the motion. The motion was therefore carried and it was

Resolved: That Option 1 be approved, to revoke Mr Mohammed Iqbal's private hire operator's licence in accordance with section 62(1) of the Local Government (Miscellaneous Provisions) Act 1976, for the following reasons:

Reason: The following conduct referred to in the officer's report and supporting statements rendering Mr Iqbal unfit to hold an operator's licence:

- a) Enabling drivers (licensed by another authority) that the council did not consider 'fit and proper' under the City of York Council's Taxi Licensing Policy to work as private hire drivers in York.
- b) Blaming the council for his stance over Uber for the position, when this was not the case.
- c) Operating '690 Taxis' and 'Street Cars' in York without an operator's licence.
- d) False or misleading customer testimonials.

All of the above gave rise to concerns with regards to Mr Iqbal's honesty and integrity, going to the heart of the 'protection of the public' consideration which is the reason for licensing private hire operators. This gave Members a reasonable cause to believe he was not 'fit and proper' to hold a private hire operator's licence.

Members did not consider Mr Iqbal 'unfit' purely on the basis that he obtained a private hire operator's licence from Wolverhampton City Council and was subcontracting work to

drivers and vehicles licensed by Wolverhampton. Members accepted that such a practice was lawful, and was a model operated by other firms. It was the motivation behind this and the other reasons summarised above that Members no longer consider Mr Iqbal are a fit and proper person to hold an operator's licence in York.

53. Workplan

Members considered the work plan for the remainder of the municipal year.

Resolved: That unmet demand and test purchased be added as agenda items for the next meeting.

Reason: To ensure that the committee has a planned schedule of work for the year.

Cllr A Mason, Chair

[The meeting started at 5.30 pm and finished at 9.42 pm].

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Meeting of Gambling, Licensing & Regulatory Committee

22 February 2021

Report of the Assistant Director – Planning and Public Protection

Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 as amended by Policing and Crime Act 2009

Renewal of a Sex Establishment Licence for Ziggy's (Upstairs), 53-55 Micklegate, York, YO1 6LJ

Summary

1. This report seeks Members determination of an application to renew a Sex Establishment Licence for a sexual entertainment venue which has been made under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 3 Control of Sex Establishments in respect of Ziggy's (Upstairs), 53-55 Micklegate, York, YO1 6LJ.
2. Name of applicant: Ziggy's Limited
3. Summary of Application: A copy of the application is attached at Annex 1 of this report and is summarised as follows. This is an application for the renewal of a Sex Establishment Licence with authorised hours of opening Monday to Sunday 21:00 hours to 03:00 hours and 18:00 hours to 04:30 hours on York Racecourse Race Days only.
4. A sex establishment licence is valid for 12 months, the licence holder must submit an application to renew the licence to the licensing authority before the existing licence expires if they wish to continue running a sexual entertainment venue. A copy of the licence to be renewed is attached at Annex 2.
5. The premises currently has a premises licence issued under the Licensing Act 2003. A copy of the premises licence is attached at Annex 3 and is summarised as follows:

Licensable Activity	Permitted Days & Hours
Films	Monday to Sunday 10:00 – 05:00
Live Music	Monday to Sunday 10:00 – 05:00
Recorded Music	Monday to Sunday 10:00 – 05:00
Performance of Dance	Monday to Sunday 10:00 – 05:00
Activities like Performance of dance	Monday to Sunday 10:00 – 05:00
Late Night Refreshment	Monday to Sunday 23:00 – 05:00
Supply of Alcohol (on and off sales)	Monday to Sunday 10:00 – 04:30
Opening Hours	Monday to Sunday 10:00 – 05:00
Non Standard Timings	From the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day. On York Racecourse race days 10:00 - 06:00 An additional hour on the morning clocks go forward.

Recommendations

- Members are asked to determine the application for the renewal of the licence in accordance with the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 as amended by the Policing and Crime Act 2009.

Reason: To consider renewal of the sexual entertainment licence as required by the legislation.

Background

- On 6 April 2010, section 27 of the Policing and Crime Act 2009 was introduced. This legislation reclassified lap dancing clubs and other similar venues as 'sexual entertainment venues'; for which a sex establishment licence is required under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. This allows Local Authorities who have adopted the provisions of the legislation to regulate lap dancing clubs and similar venues under the same regime as sex shops.

8. Sexual entertainment venues are defined in the legislation as ‘any premises at which relevant entertainment is provided for a live audience for the financial gain of the organiser or the entertainer’. The meaning of relevant entertainment is ‘any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must be reasonably assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means)’.
9. This Authority adopted the provisions of the legislation on 7 October 2010 when the resolution was approved by full council.
10. City of York Council’s Licensing of Sex Establishments Licensing Policy was reviewed and a revised policy was adopted on 27 April 2017 with immediate effect. A copy of this policy can be found at <https://www.york.gov.uk/downloads/file/213/sexual-entertainment-venues-policy-and-procedure>
11. A copy of City of York Council’s Standard Conditions for Sexual Entertainment Venues is attached at Annex 4.

Consultation

12. Consultation was carried out by the applicant and the Licensing Authority in accordance with paragraph 10 of Schedule 3 of the 1982 Act relating to the process which the applicant must follow for the application for renewal to be considered valid.
13. No objections were received.
14. A map showing the location of 53-55 Micklegate is attached at Annex 5.

Relevant Legislation – Grounds for Refusal

15. When considering the application, the Authority does not have an unfettered discretion as to whether to refuse an application or grant a renewal or transfer. The grounds on which an application could be refused are set out in paragraph 12 to Schedule 3 of the 1982 Act.

Mandatory grounds for the refusal of an application

16. The mandatory grounds for the refusal of an application for a sex establishment licence are that the applicant:
 - a) is under the age of 18;

- b) is for the time being disqualified from holding a sex establishment licence;
- c) is not a body corporate, and is not in resident or has been resident in an EEA state for six months immediately preceding the date of the application;
- d) is a body corporate which is not incorporated in an EEA state;
- e) has in the period of twelve months preceding the date of application been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the reversal has been reversed on appeal.

17. There are no mandatory grounds for refusing this application.

Discretionary grounds for the refusal of an application

18. Discretionary grounds for the refusal of an application for a sex establishment licence are that:

- a) the applicant is unsuitable to hold a licence by reason of having been convicted of an offence or any other reason;
- b) if the licence were to be granted, the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant of such a licence if he made the application himself;
- c) the number of sex establishments, or sex establishment of a particular kind, in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality;
- d) the grant would be inappropriate, having regard –
 - to the character of the relevant locality;
 - to the use to which any premises in the vicinity are put;
 - to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

19. When considering the suitability of the applicant to hold a licence the council will take into account such matters it considers to be relevant.

20. Guidance on relevant locality can be found at Annex 6, paragraphs 3.32 to 3.38.
21. Within the licensing policy the council has determined a suitable locality for sexual entertainment venues, an area within the city centre. A limit on the number of sexual entertainment venues permitted within this locality has also been determined; the appropriate number of sexual entertainment venues in the city centre area is a maximum of two, providing those premises are not too near and/or do not impact properties with sensitive uses or in sensitive locations.

Options

22. By virtue of paragraphs 10, 12 and 13 of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended), the Committee have the following options available to them in making their decision:
23. Option 1: Grant a renewal of the licence as requested.
24. Option 2: Renew the licence with modified/additional conditions imposed by the licensing committee.
25. Option 3: Refuse the application for renewal on one of the mandatory grounds or on one or more of the discretionary grounds within paragraph 12 to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).

Analysis

26. The following could be the result of any decision made by this Committee:
27. Option 1: This decision cannot be appealed at Magistrates Court by an objector to the application. Objectors could judicially review the decision.
28. Option 2: This decision could be appealed at Magistrates Court by the licence applicant.
29. Option 3: With the exception of a decision to refuse an application on a ground specified in paragraph 12(3) (c) or (d) of Schedule 3 to the 1982 Act, the licence applicant may appeal against the decision made to the Magistrates' Court.

Council Plan

30. The Council's Plan is to provide safe communities and culture for all, and a good quality of life for everyone. The approved City of York Council Policy will support the Council's Plan for a prosperous city for all and a council that listens to residents.

Implications

31. The implications arising directly from this report are:

- **Financial** - N/A
- **Human Resources (HR)** – N/A
- **Equalities** – N/A
- **Legal** – The Council has the ability to control the licensing of sexual entertainment venues having adopted Schedule 3 to Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009.

Paragraph 8 of Schedule 3 to the 1982 Act provides that where it determines to grant a sex establishment licence, the Council is empowered to impose such conditions or restrictions as it deems appropriate.

Paragraph 12 of Schedule 3 to the 1982 Act sets out a number of mandatory grounds for refusal of a sex establishment licence and also discretionary grounds for refusal of a sex establishment licence.

In considering this application the Committee should have regard to:

- Schedule 3 to the 1982 Act, as amended by Policing and Crime Act 2009.
- The Council's Policy for the Determination of Applications for Sexual Entertainment Venues.
- The Home Office – Sexual Entertainment Licence – Guidance for England and Wales which states that "Objections should not be based on moral grounds/values and local authorities should not consider objections that are not relevant to the grounds set out in paragraph 12" [of Schedule 3 to the 1982 Act].

In addition when making their decision Members must give consideration to the rights the applicant has under the European Convention on Human Rights. Article 1 (entitles every person to peaceful enjoyment of their possessions) and Article 10 (freedom of

expression) are particular rights that may be relevant. Members should consider whether interference with these rights is necessary and proportionate for the prevention of crime or disorder, for the protection of health or morals or for the protection of the rights and freedoms of others or, in the case of Article 1, whether interference can be justified in the general interest.

Members of the Committee should not allow themselves to predetermine the application or to be prejudiced in favour or opposed to the licence and shall only determine the application on its own merit.

- **Crime and Disorder** - The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.
- **Information Technology (IT)** – N/A
- **Property** – N/A
- **Other** – none

Risk Management

32. All Members are aware that any decision which is unreasonable or unlawful could be open to legal challenge resulting in loss of reputation and potential financial penalty.
33. The report details the options available to the panel in determining the application and recommends that a decision be reached. Provided the decision complies with the proper grounds for considering the application as set out within this report, there are no known risks involved with this recommendation.

Contact Details

Author:
Lesley Cooke
Licensing Manager
Ext 1515

Chief Officer Responsible for the report:
Michael Slater
Assistant Director
Planning & Public Protection
Ext 1300

**Report
Approved**



Date 21/12/2020

Wards Affected: Micklegate

Annexes

Annex 1 - Copy of application for renewal

Annex 2 - Copy of current Sex Establishment Licence to be renewed

Annex 3 - Copy of Premises Licence issued under the Licensing Act 2003

Annex 4 - Copy of CYC Standard Condition for Sexual Entertainment Venues

Annex 5 - Map showing location of premises

Annex 6 - Legislation Extracts



CITY OF YORK COUNCIL
Licensing Services, Hazel Court EcoDepot, James Street, York, YO10 3DS

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 AS AMENDED
SCHEDULE 3 - CONTROL OF SEX ESTABLISHMENTS
Application for the Grant / Renewal / Transfer of a Sex Establishment Licence

TYPE OF VENUE

- Sexual Entertainment Venue
- Sex Shop
- Sex Cinema

TYPE OF APPLICATION

- Grant
- Renewal
- Transfer

APPLICANT DETAILS

1. Is the applicant:
- An individual (please answer questions 2, 5 to 9)
 - A company or other corporate body (please answer questions 3, 5 to 9)
 - A partnership or other unincorporated body (please answer questions 4, 5 to 9)

2. Full name of applicant (individual):

Former or previous names:

Home address:

Post town:

Post code:

Telephone numbers:

Date of birth:

Email address:

3. Name of applicant (company name):

Ziggy's

Address of registered or principal office:

Ella Cottage Shipton

Post town:

YORK

Post code:

YO30 1AZ

Registration number:

Company No. 03540561

Email address:

4. Name and address of applicant:

Names and addressed of applicant's partners (please use additional sheet):

5. Are there any other persons responsible for the management of the premises/business other than the partners? Please state their names and addresses:

JASON HERRINGSHAW

c/o 53/55 MICKLEGATE YORK

- 6. a. Has the applicant ever been known by any other name? YES / NO
 - b. Has the applicant ever been convicted of a criminal offence? YES / NO
 - c. Has the applicant ever been refused a sex establishment licence? YES / NO
 - d. Has the applicant ever had a sex establishment licence revoked? YES / NO
 - e. Has the applicant ever been served with a winding up petition? YES / NO
- If the answer to any of these questions is yes, please provide details:

7. Applicants' trading address or head office (other than the premises)

8. Will the business for which this licence is sought be carried on for the benefit of a person other than the applicant? YES / NO

If the answer is yes, state the name, address, place of registration, registered number and the identity of all directors, company secretary and those with a greater than 10% shareholding (use separate sheet if necessary).

9. Does the applicant operate any other sex establishments, licensed or otherwise? Please state name, address, and type of sex establishment of each.

No

PREMISES DETAILS

10. Please state the name the business will be known as:

AS EXISTING

11. Is the premises a Building Vehicle Vessel Stall

12. Where is it proposed to use the vehicle, vessel or stall? _____

13. Does the company propose to only operate on the internet?
(f yes answer Q14 to 19 only) _____

14. Premises address 53-55 MICKLEGATE YORK

Post town

Post code

Telephone number at premises

YO30 1AZ

15. Which part of the premises is to be used as a sex establishment? *1st floor*

1ST FLOOR - EXISTING

16. Is the applicant owner lessee sub-lessee other

17. If the applicant rents the property state:

a. Name and address of landlord:

b. Name and address of the superior landlord:

c. Total annual rental:

d. Length of unexpired term:

e. Notice required to terminate tenancy:

18. Please provide details of the building management company (if appropriate):

19. State the current use of the premises:

AS EXISTING - NIGHTCLUB

20. Has planning permission, or a certificate of lawful use, been obtained for the use of the proposed premises? YES / ~~NO~~

21. Can members of the public access the premises:
 a. Directly from the street? YES / ~~NO~~
 b. From other premises? YES / ~~NO~~
 c. Not at all? (internet sales only) YES / NO

22. Are the premises currently being used as a sex establishment?
 Please provide details of the business currently operating the business:

YES EXISTING

OPERATING SCHEDULE

23. Opening hours: (If internet sales only please tick here and continue to Q 26)

Monday	Tuesday	Wednesday	Thursday	Friday
Saturday	Sunday			

Any non-standard timings: AS EXISTING

24. Has the applicant entered into any written or oral agreement in connection with the business, for example a management agreement, partnership agreement or profit share arrangement? Please provide details.

a. Please provide details of any lender, mortgage or others providing finance:
 No
 b. Please provide details of any merchandising agreements:

PREMISES MANAGEMENT

25. Please state the name of the person who will be in day to day control of the premises (the manager).

a. Will the manager be based at the premises YES / ~~NO~~
 b. Will the management of the premises be the manager's sole occupation YES / ~~NO~~

26. Who will be in control of the premises in the manager's absence (relief manager)?

ANDREW ELLIOTT
 a. Will the relief manager be based at the premises in the absence of the manager? YES / NO

If you have ticked no to any of the above please provide details.

OTHER RELIEF MANAGER TBA.

EXTERNAL APPEARANCE AND ADVERTISING – DO NOT COMPLETE FOR RENEWAL APPLICATION

27. Please describe the proposed exterior signage and advertising. Please include nature, content and size of each sign and any images to be used:

Please note that a drawing of the front elevation is required to be submitted with this application.

28. Please describe how the interior of the premises is obscured to passersby:

29. Please describe any proposed window displays:

30. Please describe how the business is to be advertised, ie business cards, billboard advertising, personal solicitation, advertising on motor vehicles, radio or television advertising:

APPLICATIONS FOR SEXUAL ENTERTAINMENT VENUES ONLY

31. Is the proposal for full nudity? YES/NO

32. Describe the nature of the entertainment eg lap-dancing, pole dancing, stage strip tease:

AS EXISTING

33. State measures to ensure employees age and right to work in the UK:

AS EXISTING

34. Describe training and welfare policies:

AS EXISTING

Please enclose a copy of the welfare policy for performers (or equivalent document).

35. Please set out any further information you wish the authority to take into account.

36. Is there any information on this form you do not wish to be seen by members of the public?
If so state which information and the reasons why you do not wish it to be seen.

CHECKLIST & ENCLOSURES

I have made or enclosed payment of the fee
I have enclosed three sets of plans of the premises
I have enclosed a drawing of the street elevation of the premises
In the case of an application to transfer the licence, include the completed Consent to Transfer form

I declare that I have served notice of this application on North Yorkshire Police.

I declare that a public notice advertising this application has today been displayed upon the proposed premises.
A copy of the notice and the standard declaration is enclosed.

I declare that within seven days of the date of this application a public notice advertising this application will be published in the legal notices column of the local press.

A copy of the relevant press edition will be forwarded to the City of York Council Licensing Section.

I understand that if I do not comply with the above requirements my application will be rejected.

Any person who, in connection with an application for a grant, renewal or transfer of a sex establishment licence, makes a false statement which he knows to be false in any material respect of which he does not believe to be true is guilty of an offence and liable on summary conviction to an unlimited fine.

SIGNATURES

Signature of applicant or applicant's solicitor or other duly authorised agent, if signing on behalf of the applicant please

Signature: *A.G. ELLIOTT* Name (print): A.G. ELLIOTT
Date: 10-11-20 Capacity: OWNER

Contact name (where not previously given) and address for correspondence associated with this application:

Post town: _____ Post code: _____
Telephone number (if any): _____

If you would prefer us to correspond with you by email, your email address (optional): _____



LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
SCHEDULE 3 AS AMENDED BY POLICING AND CRIME ACT 2009

SEX ESTABLISHMENT LICENCE

The City of York Council hereby grant renewal of a Sex Establishment Licence to:

Ziggy's Ltd
Ella Cottage
Shipton
York
YO30 1AZ

to use the premises known as:

**55 Club
(1st Floor)
53-55 Micklegate
York
YO1 6LJ**

for the purposes of a sex establishment comprising a sexual entertainment venue as defined in Schedule 3 to the above Act.

This Licence is granted subject to the conditions set out in the schedule below.

A fee of £1794.00 (773449) has been paid for this licence.

This licence shall continue in force from 1 December 2019 until 30 November 2020 unless previously revoked.

Renewal Granted on
18 March 2020

Signed .. 
For and on behalf of the
Director of Economy & Place

SCHEDULE

1. A copy of this Licence and any Regulations prescribing standard conditions made by the authority must be kept exhibited in a position visible to customers.
2. Any external indication of the nature of the business is prohibited.
3. The creation of any new windows or other openings in the external structure of the building is prohibited.
4. This licence only covers the first floor of 53-55 Micklegate, York, YO1 6LJ.
5. That the standard hours of opening be limited to Monday to Sunday 21:00 hours to 03:00 hours. Non-standard hours of opening to be extended on York Racecourse Race Days only 18:00 hours to 04:30 hours.
6. Where a Licensee is a body corporate or an un-incorporated body any change of Director, Company Secretary or other person responsible for the management of the body is to be notified in writing to the Council within 14 days of such change. Such written details as the Council may require in respect of any new Director, Secretary or Manager are to be furnished within 14 days of a request in writing from the Council.
7. The Licensee or a responsible person nominated by him in writing for the purpose of managing the sex establishment in his absence and of whom details (including 2 photographs) have been supplied to and approved in writing by the Council shall be in charge of and upon the premises during the whole time they are open to the public. This condition shall be read in conjunction with condition 8 below.
8. The Licensee shall maintain a daily register in which he shall record the name and address of any person who is to be responsible for managing the sex establishments in his unavoidable absence, and the names and addresses of those employed in the sex establishment. The register is to be completed each day within 30 minutes of the sex establishments opening for business and is to be available for inspection by the Police and by authorised officers of the Council.
9. The name of the person responsible for the management of a sex establishment be he/she the Licensee or a Manager approved by the Council shall be prominently displayed within the sex establishment throughout the period during which he/she is responsible for its conduct.
10. The Licensee shall retain control over all portions of the premises and shall not let, licence or part with possession of any part of the premises.
11. The Licensee shall maintain good order in the premises.
12. A notice stating that persons under the age of 18 may not enter the premises shall be prominently displayed at the entrance.
13. The Licensee shall ensure that the public are not admitted to any part or parts of the premises other than those which have been approved by the Council.
14. No part of the premises shall be used by prostitutes (male or female) for the purposes of solicitation or of otherwise exercising their calling.

15. Neither the Licensee nor any employee or other person shall seek to obtain custom for the sex establishment by means of personal solicitation outside or in the vicinity of the premises.
16. A copy of the licence and of these conditions shall be exhibited in a prominent place within the premises where the public may see and read them. These displays shall be reproductions to the same scale as those issued by the Council. The copy of the licence required to be displayed as aforesaid shall be suitably framed and the copy of these conditions shall be retained in a clean and legible condition.
17. No change of use of any portion of the premises from that approved by the Council shall be made until the consent of the Council has been obtained thereto.
18. No change between the uses of a sex shop, sex cinema or sexual entertainment venue shall be effected without the consent of the Council.
19. The Licence Holder shall comply with requirements relating to external appearance of the licensed premises as the Council may consider reasonably necessary. The Licensee shall give prior notice to the Council of any proposed change to the external appearance of the premises and shall support the prior notice by the submission of detailed drawings to show the proposed changes.
20. Without prejudice to the generality of condition 19 above, no display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any matter or thing (whether illuminated or not) shall be exhibited so as to be visible from outside the premises unless the prior approval of the Council has been received in writing.
21. The entrance doors to the premises shall be of a material or covered with a material which will render the interior of the premises invisible to passers by.
22. Windows and openings to the premises other than the entrances shall be obscured in a manner and with such material as may be approved by the Council. Plans and drawings showing the proposed scheme shall be submitted to the Council for prior approval. This condition shall not be construed as lessening the obligation of the Licensee under condition 21 hereof.
23. Lighting in all parts of the premises as approved by the Council shall be in operation continuously during the whole of time that the sex establishment is open to the public.
24. The number, size and position of all doors or openings provided for the purposes of the ingress and egress of the public shall be approved by the Council and shall comply with the following requirements:
 - a) All doors or openings approved by the Council shall be clearly indicated on the inside by the word "Exit".
 - b) Doors and openings which lead to parts of the premises to which the public are not permitted to have access shall have notices placed over them marked "Private".
 - c) Save in the case of emergency no access shall be permitted through the premises to any unlicensed premises adjoining or adjacent.

25. No fastening of any description shall be fitted upon any booth or cubicle within the sex establishment nor shall more than 1 person (including employee be present in any such booth or cubicle at any time).
26. Alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the premises shall not be made except with the prior approval of the Council.
27. All parts of the premises shall be kept in a clean and wholesome condition to the satisfaction of the Council.
28. The premise will be conducted in a decent, sober and orderly manner at all times. Steps will be taken to ensure that none of the following takes place:
 - a) indecent behaviour including sexual intercourse
 - b) the offer of any sexual or other indecent service for reward
 - c) unlawful possession and/or supply of drugs controlled by the Misuse of Drugs Act 1971.
 - d) any acts of violence against persons or property and/or the attempt or threat of such act likely to cause a breach of the peace.
29. All performers shall be over 18 years of age.
30. Notices to be displayed within the premises and at the entrance informing customers of the "House Rules" that affect them and a warning that "adult entertainment" is provided within the premises.
31. Written information shall be given to the dancers/entertainers advising them of the house rules for performers and customers and possible consequences of failure to comply.
32. Adult entertainment shall not take place in a location that could be viewed from outside the premises.
33. Advertising of adult entertainment either on the premises or otherwise shall not include any photographs or images which indicate that entertainment involving nudity or sexual performance takes place on the premises.
34. CCTV for both monitoring and recording shall be installed, maintained and operated in accordance with Data Protection guidelines and will cover all areas where dancing takes place, including each dance booth. All cameras shall continually record whilst the premises are open to the public and recordings shall be kept for a period of 28 days with times and dates indicated. These recordings shall be kept secure and shall be made available to an authorised officer of the Local Authority or a Police Officer on request. The new CCTV system must be in place by 1st June 2015.
35. Performers shall be provided with separate dressing/changing rooms which shall be located so as to be separate and set apart from the public facilities. No person other than performers and authorised staff will be allowed in or near the dressing/changing room. Safe and controlled access to the dressing/changing room will be maintained at all times.
36. There shall be at least one female member of staff authorised to be responsible for the safety and welfare of the performers.

37. At least two SIA (Security Industry Authority) registered door supervisors shall be present when the sexual entertainment premises are open to the public with one SIA door supervisor being positioned on the first floor landing throughout the performance (therefore being present in the area in which the performance takes place) and one at the main entrance to the premises on the ground floor.
38. Dance entertainment shall be given only by performers/entertainers who are engaged exclusively for that purpose. Audience participation shall not be permitted.
39. Dance entertainment shall only be performed in the areas of the club as marked on the plans deposited with the Licensing Authority and with the Authority's approval. These areas can only be changed with the approval of the Licensing Authority.
40. If performers are invited to have a drink with a customer, the performer will remain fully clothed during this period. Performers will not be paid commission on the sale of beverages.
41. On leaving the premise performers will be escorted to their transport by a door supervisor.
42. Adult entertainment shall not take place before 9.00 pm, except for York Race Days as specified elsewhere in the licence.
43. The premises licence holder shall ensure that the house rules for both customers and performers are strictly adhered to.
44. Dancers will be provided with separate secure dressing rooms, facilities to secure valuables and proper sanitation facilities. No person other than performers and authorised staff will be allowed in or near the dressing rooms, therefore safe and controlled access will be maintained at all times.

ANNEX 1

House Rules (Customers)

1. Dancers may only dance to seated customers.
2. Customers must remain clothed at all times.
3. Dancers must not be touched by the customer while they are dancing except for the placing of gratuities into the hand or garter of the dancer at the beginning or conclusion of the performance.
4. No person shall take any video recordings or photographs by any means of the authorised adult entertainment.
5. No persons other than performers and authorised staff shall be permitted in the dressing/changing rooms.
6. Dancers shall re-dress at the conclusion of the performance.
7. Customers who fail to comply with these rules shall be removed from the premise by the management or security staff
8. No customers shall be admitted to the premises or allowed to remain on the premises if they appear to be intoxicated or unruly.
9. The duty manager and security staff will ensure that all customers and performers adhere to the house rules.

ANNEX 2

House Rules (Performers)

1. All performers shall be over 18 years of age. Prior to engagement all performers will provide documentation that they are aged 18 years or over. Checks will be made to make sure the necessary legal work permits to work in the United Kingdom are in place. Should performers be employed from an agency the same checks will be carried out. Management shall keep written record of these checks which shall be available to authorised officers of the council and the Police.
2. No performer shall be allowed to work, if under the judgement of the management, they appear to be intoxicated or under the influence of illegal substances.
3. No performance shall involve the use of sex articles (as defined in the Local Government (Miscellaneous Provisions) Act 1982).
4. Performers shall not use any props or clothing in the act which portrays them as a minor.
5. Garters worn for the collection of gratuities shall be situated no higher than mid thigh.
6. Dancers shall re-dress at the conclusion of the performance and are to remain clothed (minimum bikini top and bottoms) at all times except when giving a performance.
7. Performances of adult nature must be restricted to the designated areas.
8. All staff and performers are forbidden to give personal details including real name and address or other contact details of any other performer or staff member to a customer. Performers are strongly advised not to pass their own personal details to customers.
9. The duty manager and security staff will ensure that all customers and performers comply with the house rules.

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Annex 3

LICENSING ACT 2003**PREMISES LICENCE****Schedule 12****Part A****Part 1 Premises details**

Premises licence number CYC - 009397

Postal address of premises:

Ziggy's Nightclub Limited
53-55 Micklegate

Post town: **York**Post code: **YO1 6LJ**

Telephone number: 01904 620602

Expiry date: This licence has no expiry date.**Licensable activities authorised by the licence:**

Films
Live Music
Recorded Music
Performances of Dance
Activities like music/dance
Late Night Refreshment
Supply of Alcohol

The times the licence authorises the carrying out of licensable activities:**FILMS**

Indoors

Monday
10:00-05:00

Tuesday
10:00-05:00

Wednesday
10:00-05:00

Thursday
10:00-05:00

Friday
10:00-05:00

Saturday
10:00-05:00

Sunday
10:00-05:00

LIVE MUSIC

Indoors

Monday 10:00-05:00	Tuesday 10:00-05:00	Wednesday 10:00-05:00	Thursday 10:00-05:00
Friday 10:00-05:00	Saturday 10:00-05:00	Sunday 10:00-05:00	

RECORDED MUSIC

Indoors

Monday 10:00-05:00	Tuesday 10:00-05:00	Wednesday 10:00-05:00	Thursday 10:00-05:00
Friday 10:00-05:00	Saturday 10:00-05:00	Sunday 10:00-05:00	

PERFORMANCES OF DANCE

Indoors

Monday 10:00-05:00	Tuesday 10:00-05:00	Wednesday 10:00-05:00	Thursday 10:00-05:00
Friday 10:00-05:00	Saturday 10:00-05:00	Sunday 10:00-05:00	

ACTIVITIES LIKE MUSIC/DANCE

Indoors

Monday 10:00-05:00	Tuesday 10:00-05:00	Wednesday 10:00-05:00	Thursday 10:00-05:00
Friday 10:00-05:00	Saturday 10:00-05:00	Sunday 10:00-05:00	

LATE NIGHT REFRESHMENT

Indoors

Monday 23:00 - 05:00	Tuesday 23:00-05:00	Wednesday 23:00-05:00	Thursday 23:00-05:00
Friday 23:00-05:00	Saturday 23:00-05:00	Sunday 23:00-05:00	

SUPPLY OF ALCOHOL

Monday 10:00-04:30	Tuesday 10:00-04:30	Wednesday 10:00-04:30	Thursday 10:00-04:30
Friday 10:00-04:30	Saturday 10:00-04:30	Sunday 10:00-04:30	

Non Standard Timings for Films, Live Music, Recorded Music, Performance of Dance and Activities like Music/Dance:

On York Racecourse race days 10:00 - 06:00

An additional hour on the morning clocks go forward.
Non Standard Timings for Supply of Alcohol:

From the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day.

On York Racecourse race days 10:00 - 05:30
An additional hour on the morning clocks go forward.

The Opening Hours of the Premises

Monday 10:00-05:00	Tuesday 10:00-05:00	Wednesday 10:00-05:00	Thursday 10:00-05:00
Friday 10:00-05:00	Saturday 10:00-05:00	Sunday 10:00-05:00	

Non Standard Timings:

From the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day.

On York Racecourse race days 10:00 - 06:00

An additional hour on the morning clocks go forward.

Where the licence authorises supplies of alcohol whether these are on and/or off supplies:

On and off the premises

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premise licence:

Name: Ziggy's Nightclub Limited

Address: 53-55 Micklegate
York
YO1 6LJ

Telephone number: 07774 198 155

Email address: a.elliott324@btinternet.com

Registered number of holder, for example company number, charity number (where applicable):

03540561

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol:

Name: Mr Andrew Gregory Elliott

Address: Ella Cottage
Shipton
York
YO30 1AZ

Telephone number: 07774 198155

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol:

City of York Council
CYC 010177

Annex 1 – Mandatory conditions

MANDATORY CONDITIONS IN RELATION TO THE SUPPLY OF ALCOHOL

1. In accordance with section 19 of the Licensing Act 2003, where a premises licence authorises the supply of alcohol, the licence must include the following conditions.
2. The first condition is that no supply of alcohol may be made under the premises licence -
 - (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
3. The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -
 - (a) games or other activities which require or encourage, or are designed to require or encourage individuals to -
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
- (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

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

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

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

- (a) a holographic mark, or
- (b) an ultraviolet feature.

7. The responsible person must ensure that –

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

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

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

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

MANDATORY CONDITION - ALCOHOL PRICING

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1 –

(a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) “permitted price” is the price found by applying the formula –

$$P = D + (D \times V)$$

where –

(i) P is the permitted price,

(ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence –

- (i) the holder of the premises licence,

- (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

MANDATORY CONDITION: DOOR SUPERVISION

1. In accordance with section 21 of the Licensing Act 2003 (as amended by section 25 Violent Crime Reduction Act 2006), where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must -
- (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
 - (b) be entitled to carry out that activity by virtue of section 4 of that Act.
2. But nothing in subsection (1) requires such a condition to be imposed -
- (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or
 - (b) in respect of premises in relation to -
 - (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence, or
 - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).
3. For the purposes of this section -
- (a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and which is licensable conduct for the purposes of that Act (see section 3(2) of that Act), and
 - (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

MANDATORY CONDITION: EXHIBITION OF FILMS

1. In accordance with section 20 of the Licensing Act 2003, where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.

2. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.

3. Where -

- (a) the film classification body is not specified in the licence, or
- (b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question, admission of children must be restricted in accordance with any recommendation made by that licensing authority.

4. In this section - 'children' means persons aged under 18; and 'film classification body' means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

Embedded Restrictions

STANDARD PRE-EXISTING CONDITIONS APPLICABLE TO ON LICENCE WITH NO CHILDREN'S CERTIFICATE

1) The restrictions to permitted hours do not prohibit:

- a) the sale or supply of alcohol to, or consumption of alcohol by, any person residing at the licensed premises
- b) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied
- c) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

Private Entertainment

As the provisions of the Private Places of Entertainment (Licensing) Act 1967 was previously adopted and applied throughout the City of York Council area, private entertainment for gain may be provided throughout the premises without limitation by virtue of the previous Justices Licence.

Recorded Music

Recorded music may be played throughout the premises without limitation in line with previous provisions as set out in Section 182 of the Licensing Act 1964.

Annex 2 – Conditions consistent with the operating schedule

Licensing Objectives

Prevention of Crime & Disorder

1. SIA licensed door staff will be employed at the premises.
2. CCTV cameras cover both the interior and the exits to the club.
3. The premises will participate in any radio link scheme linking a majority of local licensed premises to the police.

4. The maximum occupancy of the premises will be 500 persons.
5. All off sales of alcohol shall be made in sealed containers.

Public Safety

6. Complies with current local authority and fire service safety regulations with regard to emergency lighting, fire alarms and electrical installation checks etc.

Public Nuisance

7. Notices will be displayed at the Micklegate exit asking customers to leave the premises quietly.
8. During the operation of amplified equipment and regulated entertainment all doors, including fire doors, shall be kept shut when not in use. With the exception to the front door which may remain open during opening hours, providing that the noise emanating does not cause a nuisance to any noise sensitive premises.
9. Notices will be displayed in the car park asking customers to have regard for neighbours by leaving the area quietly.

Protection of Children from Harm

10. No under 18s are allowed on the premises unless at an arranged under 18 event run in conjunction with the local authority and police.
11. Proof of age scheme is in operation.

Annex 3 – Conditions attached after a hearing by the licensing authority

Review Conditions

1. All music in the basement area shall be via the dBX DriveRack PA noise limiter or similar noise limiter to be agreed with City of York Council's Environmental Protection Unit prior to use.
2. Prominent, clear and legible signs shall be displayed in the DJ area to inform DJs that all music is to be played through the noise limiter provided.
3. An alarm system shall be installed and be operational during hours of opening to the public which alerts staff when the rear fire door has been opened.
4. Prominent, clear and legible notices shall be displayed on all fire exits stating that fire exits are for emergency use only.
5. Documented patrols shall be carried out by members of staff at no less than hourly intervals during the hours of opening to the public. These checks shall be undertaken outside the building to the front and rear to check for noise from inside the premises and noise from customers outside the venue to ensure compliance with Condition 8.
6. Staff training shall be given and documented regarding all matters relating to the licence and its conditions. Records of training shall be kept for 3 years.

7. A direct contact number for the duty manager shall be made available to residents living in the vicinity of the premises on request.
8. No music or amplified sound shall be audible at the boundary of the car park to the rear of the premises.
9. During hours the premises is open to the public, fire doors shall be fitted with non-locking restrictions which prevent their opening except in an emergency.

Hearing Conditions

1. There will be no entry / re-entry to the premises (save for persons who have gone to the designated smoking area) after 04:00hrs.
2. A CCTV system will be installed and maintained at the premises. Images will be retained for a minimum period of 28 days and be made available to officers of the responsible authorities on request.
3. The outside smoking area will be monitored by a designated member of staff whose duty it is to ensure that no disturbance is caused by those using the smoking area.
4. The premises will operate a written queuing and dispersal policy to ensure customers leave quietly. That policy will be operated and a copy made available to officers of the responsible authorities on request.
5. Bottle bins will be emptied between 09:00hrs and 23:00hrs.
6. All windows and doors opening onto the rear car park area of the premises shall be kept closed during regulated entertainment. Except for any door used for access which forms a lobby consisting of a minimum of 2 doors, one at each end of the lobby. These lobby doors shall be kept closed except for ingress and egress and fitted with a self closing device.
7. In relation to Review Condition 5. The documentation of patrols shall be made in the course of the patrol or on completion of each patrol. The patrol documents shall be kept for a minimum of 3 months and made available to the Licensing Authority or any responsible authority on reasonable request.

Annex 4 – Approved Plan

Plan Number Y-BSP-3422-13-100

For and on behalf of
The Director of Economy & Place

Licensing Services
Hazel Court EcoDepot
James Street
York

Date: 23/07/2015
17/01/2020 (Transfer & DPS Variation)

Phone: 01904 552422
Fax: 01904 551590
Email: licensing@york.gov.uk
Website: www.york.gov.uk/licensing



YO10 3DS

PREMISES LICENCE SUMMARY**Part B****Part 1 Premises details**

Premises licence number CYC - 009397

Postal address of premises:

Ziggy's Nightclub Limited
53-55 Micklegate

Post town: **York**Post code: **YO1 6LJ**

Telephone number: None

Where the licence is time limited the date:

This licence has no expiry date.

Licensable activities authorised by the licence:

Films
Live Music
Recorded Music
Performances of Dance
Activities like music/dance
Late Night Refreshment
Supply of Alcohol

The times the licence authorises the carrying out of licensable activities:

FILMS

Indoors

Monday 10:00-05:00	Tuesday 10:00-05:00	Wednesday 10:00-05:00	Thursday 10:00-05:00
Friday 10:00-05:00	Saturday 10:00-05:00	Sunday 10:00-05:00	

LIVE MUSIC

Indoors

Monday 10:00-05:00	Tuesday 10:00-05:00	Wednesday 10:00-05:00	Thursday 10:00-05:00
Friday 10:00-05:00	Saturday 10:00-05:00	Sunday 10:00-05:00	

RECORDED MUSIC

Indoors

Monday 10:00-05:00	Tuesday 10:00-05:00	Wednesday 10:00-05:00	Thursday 10:00-05:00
Friday 10:00-05:00	Saturday 10:00-05:00	Sunday 10:00-05:00	

PERFORMANCES OF DANCE

Indoors

Monday 10:00-05:00	Tuesday 10:00-05:00	Wednesday 10:00-05:00	Thursday 10:00-05:00
Friday 10:00-05:00	Saturday 10:00-05:00	Sunday 10:00-05:00	

ACTIVITIES LIKE MUSIC/DANCE

Indoors

Monday 10:00-05:00	Tuesday 10:00-05:00	Wednesday 10:00-05:00	Thursday 10:00-05:00
Friday 10:00-05:00	Saturday 10:00-05:00	Sunday 10:00-05:00	

LATE NIGHT REFRESHMENT

Indoors

Monday 23:00 - 05:00	Tuesday 23:00-05:00	Wednesday 23:00-05:00	Thursday 23:00-05:00
Friday 23:00-05:00	Saturday 23:00-05:00	Sunday 23:00-05:00	

SUPPLY OF ALCOHOL

Monday 10:00-02:30	Tuesday 10:00-02:30	Wednesday 10:00-02:30	Thursday 10:00-02:30
Friday 10:00-02:30	Saturday 10:00-02:30	Sunday 10:00-02:30	

Non Standard Timings for Films, Live Music, Recorded Music, Performance of Dance and Activities like Music/Dance:

On York Racecourse race days 10:00 - 06:00

An additional hour on the morning clocks go forward.
Non Standard Timings for Supply of Alcohol:

From the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day.

On York Racecourse race days 10:00 - 05:30
An additional hour on the morning clocks go forward.

The Opening Hours of the Premises

Monday 10:00-05:00	Tuesday 10:00-05:00	Wednesday 10:00-05:00	Thursday 10:00-05:00
Friday 10:00-05:00	Saturday 10:00-05:00	Sunday 10:00-05:00	

Non Standard Timings:

From the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day.

On York Racecourse race days 10:00 - 06:00

An additional hour on the morning clocks go forward.

Where the licence authorises supplies of alcohol whether these are on and/or off supplies:

On and off the premises

Name and (registered) address of holder of premise licence:

Name: Ziggy's Nightclub Limited
Address: 53-55 Micklegate
York
YO1 6LJ

Registered number of holder, for example company number, charity number (where applicable):

03540561

Name of designated premises supervisor where the premise licence authorises the supply of alcohol:

Mr Andrew Gregory Elliott

State whether access to the premises by children is restricted or prohibited

In accordance with section 20 of the Licensing Act 2003, where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.

Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.

Where -

- (a) the film classification body is not specified in the licence, or
- (b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question, admission of children must be restricted in accordance with any recommendation made by that licensing authority.

In this section - 'children' means persons aged under 18; and 'film classification body' means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

No under 18s are allowed on the premises unless at an arranged under 18 event run in conjunction with the local authority and police.

For and on behalf of
The Director of Economy & Place

Date: 23/07/2015
17/01/2020 (Transfer & DPS Variation)

Licensing Services
Hazel Court EcoDepot
James Street
York
YO10 3DS

Phone: 01904 552422
Fax: 01904 551590
Email: licensing@york.gov.uk
Website: www.york.gov.uk/licensing

Standard Conditions

Sexual Entertainment Venues

General

1. In accordance with Home Office guidance, where a condition conflicts with a condition in a Licensing Act 2003 premises licence, the more onerous applies.
2. Unless stated otherwise, the licence hereby granted will remain in force for one year from the date on the licence, after which it will cease to be in effect unless an application for renewal is submitted in the manner prescribed by the council.
3. The licence may be revoked by the council if at any time the holder is convicted of an offence of using the licensed premises, or other premises for which a similar licence has been granted, other than in accordance with the terms, conditions or restrictions of the licence or is convicted of any offence under any enactment defined in paragraph 1 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended.
4. In the event of a conflict between these conditions and any special conditions contained in a licence relating to a sex establishment the special conditions shall prevail.
5. The name of the premises must be approved by the council in writing. Any change to the name of the premises must be approved by the Council in writing.

Exhibition of the licence

6. The licence or a certified copy must be prominently displayed at all times so as to be readily and easily seen by all persons using the premises and all authorised officers. A copy of the conditions attached to the licence must be kept on the premises and be available for inspection by an authorised officer of the Council.

Hours of opening

7. Except with the written consent of the council, the premises will only open to the public during the following hours:

Monday	21:00 – 03:30	Friday	21:00 – 04:30
Tuesday	21:00 – 03:30	Saturday	21:00 – 04:30
Wednesday	21:00 – 03:30	Sunday	21:00 – 03:30
Thursday	21:00 – 03:30		

Conduct of the premises

8. Relevant entertainment will only be performed by the dancer. There must be no audience participation.
9. Dancers will only perform on the stage area, or in booths/areas for VIPs as identified on the plan attached.

10. There must be no physical contact (touching) by a customer of a dancer while a performance is taking place, except for the placing of gratuities into the hand of the dancer at the beginning or conclusion of the performance. A dancer may have physical contact with the customers while the performance is taking place, this is restricted to touching the customers knees (including sitting on their knee), lower legs, upper chest, arms, face and head. There will be no physical contact of the pubic area or genitals.
11. Any performance will be restricted to dancing and the removal of clothes. There will not be any other form of sexual activity or stimulation which, for the avoidance of doubt, includes kissing.
12. Sex toys must not be used and penetration of the genital area by any means must not take place.
13. Dancers shall re-dress at the conclusion of the performance.
14. Customers will not be permitted to throw money at the dancers.
15. No customers shall be admitted to the premises or allowed to remain on the premises if they appear to be intoxicated or unruly.
16. No person shall take any photographs, videos or other similar recordings (including mobile phones and video streaming) of the authorised relevant entertainment.

External appearance

17. There will be a notice displayed inside each entrance or doorway to the premises, clearly visible on entering the premises, which states the following words and no others:

STRICTLY NO ADMITTANCE TO PERSONS UNDER 18 YEARS OF AGE

This premises operates a Challenge 25 policy.

Persons who appear to be under the age of 25 will be required to show proof of age.

18. The external appearance of the premises must be approved by the council in writing. Any change to the external appearance must be approved by the council. The operator must advise of any change in writing including a drawing of the existing and proposed street elevation. This must be approved by the council in writing before work is undertaken.
19. Access to the licensed area of the premises should be through a lobby area which is constructed in such a way that the inside of the licensed premises where relevant entertainment takes place is not visible to passing members of the public when the doors of the premises are opened.
20. Windows and opening to the premises, other than entrances, shall be obscured in a manner and with such material approved by the council. Door entrances shall also be obscured by blinds or material approved by the council so as to prevent any member of the public from seeing through to the premises whilst relevant entertainment is taking place.

21. External signage will only be illuminated between 9.00pm and 5.00am, and movable signs placed outside the premises will be removed between 4.30am and 9.00pm.

Advertising

22. Any unsolicited written, visual or auditory advertisement material, posters, signage or window display must not be of a sexually explicit or suggestive nature, will not contain images or text of a sexually explicit, obscene or offensive nature and must be approved by the council in writing.
23. Staff employed or subcontracted by the premises will not verbally or otherwise promote, tout or advertise the premises, except by way of flyers. Staff employed or subcontracted by the premises will not direct potential customers to transport connected with the premises.
24. The distribution of flyers will only be permitted in such a way where it does not cause public offence. Therefore, the distribution of flyers is only permitted between the hours of 9.00pm and 3.30am. The licensee will remove any leaflets/flyers from the highway within a 100 metre radius of the premises by 5.00am. Flyers must not be distributed by and to persons Under the age of 18 years.

Layout of the premises

25. Access to ground floor premises may only be through two or more doors placed consecutively, so arranged that when a person enters or leaves the premises the interior of the premises is not recognisable to persons outside the premises. The first set of entry doors must be fitted with a device to provide for their automatic closure and such a device shall be maintained in good working order.
26. No access will be permitted through the premises to any other adjoining or adjacent premises except in the case of an emergency.
27. No alterations (including temporary alterations) will be made to the structure and installations on the premises, without the prior written consent of the council. This condition will not require notice to be given in respect of routine maintenance works. Where there is any doubt the licensee should seek advice from the council.
28. Where works necessitate the premises being closed for a long period of time, the premises shall not reopen for the purpose of the licence, until the licensee has been notified in writing by the council of the satisfactory completion of the work.
29. All parts of the premises shall be well maintained and kept in a clean condition to the satisfaction of the council.

Management of the premises

30. Where the licensee is a body corporate, or an un-incorporated body, any change of director, company secretary or other person responsible for the management of the body will be notified in writing to the council within 14 days of such change. Such details as the council may require in respect of the change of personnel will be furnished within 14 days of a request in writing from the council.

31. The licensee, or a responsible person nominated by him/her in writing for the purpose of managing the venue ("the manager") will have personal responsibility for and be present on the premises whilst relevant entertainment is being performed. Any such nomination will be produced on demand to an authorised officer of the council or the police.
32. The licensee will ensure that any person nominated by him/her under the above:
 - a) has been provided with a copy of the conditions relating to the premises and is fully conversant with them; and
 - b) is in possession of a written nomination referred to about at all times when they are in charge of the premises.
33. Where the licensee, director, company secretary, or responsible person nominated for the purpose of managing the venue ("the manager"), is convicted of an offence, they must, as soon as practicable after the conviction, inform the council of the conviction giving details of the nature and date of the conviction, and any sentence imposed.
34. The licensee will retain control over all parts of the premises and will not let, licence or part with possession of any part of the premises. The council must be notified immediately in the event that any part of the premises affected by the termination of a lease or other event affecting the licensee's control of the premises.
35. The licensee will ensure that the public is not admitted to any part or parts of the premises that has not been approved by the council.
36. No person under the age of 18 will be admitted to the premises.
37. The licensee will operate a Challenge 25 age verification policy. People who appear to be under the age of 25 will be required to show proof of ID prior to admittance. A notice to this effect, in accordance with condition 18 will be displayed on the premises.
38. The licence holder will not employ any person under the age of 18 in any capacity.
39. The licensee will comply with all statutory provisions and any regulations made hereunder.
40. The licensee will provide, for approval in writing of both the police and the licensing authority, a code of practice for the dancers. This code must be given to all dancers and displayed in staff areas. This code must be made available upon request to both the police and Authorised officers.
41. The licensee will provide, for approval in writing of both the police and the licensing authority, a code of conduct for customers, this must be printed in a manner which is clear and easy to read during normal operation of the premises. This code must be prominently displayed at each entrance to the premises, at the entrance to any private dance areas and in suitable locations within the licensed premises, such locations to be agreed with the council, such as at bars.
42. Price lists for both drinks and sexual entertainment will be clearly displayed at each entrance to the premises, at each bar and at each table.
43. Suitable and sufficient training will be provided to all staff including the nominated responsible person. The training will be recorded and the training records must be made available upon request to both the police and authorised officers.

44. The name of the person responsible for the management of the premises, whether the licensee or manager, shall be displayed in a conspicuous position within the premises throughout the period during which he/she is responsible for its conduct.

Safety and security

45. A colour digital CCTV system will be maintained and operational at the premises at all times when licensable activities are being carried out and at any other times when member of the public are present on the premises.
46. The CCTV system will cover all areas of the premises occupied by the public under the terms of the licence, including corridors, stairways, each dance booth and VIP areas (excluding within toilets and changing rooms). The CCTV system will cover the main entrances and external areas of the premises occupied by the public, for example queuing areas, beer gardens, smoking areas and car parks.
47. The locations of CCTV cameras are identified on the site plan of the premises. No amendments to the locations of the cameras will be made without prior consultation with North Yorkshire Police and the council.
48. The CCTV system will be of a satisfactory resolution quality which will enable the identification of persons and activities, and other fine details such as vehicle registration number plates.
49. Recorded CCTV images will be maintained and stored for a continuous period of 28 days. The CCTV equipment shall have constant time/date generation which must be checked on a daily basis for accuracy.
50. Where CCTV is recorded onto a hard drive system, any DVDs subsequently produced will be in a format so it can be played back on a standard DVD player.
51. The nominated person ("the manager") must be trained in the use of any such CCTV equipment and be able to produce CCTV images to the police or Licensing Authority.
52. CCTV footage will be controlled and kept in a secure environment to prevent tampering and unauthorised viewing.
53. The data controller, under the Data Protection Act 1998, who is responsible for any CCTV images captured on cameras on the premises will, on the lawful request of the police or an authorised officer of the council, cause any required footage to be downloaded immediately, or where this is not possible, as soon as reasonably practicable, and supplied to the requesting officer. Where the CCTV images are not supplied at the time of the request being made the data controller will ensure that they are secured to prevent any overwriting.
54. A minimum of two Security Industry Authority registered door staff (numbers to be subject to police and licensing authority approval) will be present on the premises during the performance of relevant entertainment.
55. A refusals/incident/accident register will be maintained and shall record all refusals relating to alcohol, access to the premises and all incidents or accidents.

56. The licensee will ensure that a fire safety risk assessment is carried out in connection with the premises, and is retained on the premises at all times and available for inspection by an authorised officer or a member of the Fire Authority.
57. The licensee will maintain good order in the premises at all times, and ensure that persons entering or leaving the licensed premises conduct themselves in an orderly manner and do not in any way cause annoyance to residents in the vicinity and persons passing by.

Staff welfare

58. Dancers will be aged 18 years or over.
59. Before a dancer is permitted to work on the premises the licensee will ensure that the dancer:
 - a) has not been convicted of theft, drug offences or prostitution
 - b) has the right to work in the UKThe licensee will keep records of the checks, including copies of any documentation such as a basic disclosure, passport, visa, driving licence or national insurance number provided by the dancer.
60. All premises that provide relevant entertainment will provide dancers with copies of the following documents:
 - a) A copy of the conditions attached to the Sex Establishment Licence;
 - b) Details of any other conditions applied by management of the premises;
 - c) A copy of the code of practice for dancers;
 - d) A copy of the code of conduct for customers;
 - e) Price lists for drinks and sexual entertainment.
61. Dancers will be provided with separate secure dressing rooms, facilities to secure valuables and proper sanitation facilities. No person other than performers and authorised staff will be allowed in or near the dressing rooms, therefore safe and controlled access will be maintained at all times. The documents detailed in condition 60 will be displayed in the dressing rooms.
62. There will be at least one female member of staff authorised to be responsible for the safety and welfare of the dancers. This staff member must on the premises at all times when licensable activities are taking place.
63. All booths and VIP areas used for private dances must be visible to supervision and must not have closing doors, any curtains used must be approved by the council in writing.
64. All booths and VIP areas used for private dances must be directly supervised by either a SIA registered door supervisor, or a member of staff who has direct contact with a SIA registered door supervisor working on the premises at all times the booths/areas are in use. Direct supervision does not include remote supervision by CCTV.
65. Dancers will only be present in the licensed area in a state of nudity when they are performing on stage or providing a private dance.
66. Any person on the premises who can be observed from outside the premises will be properly and decently dressed.

67. The practice of fining is prohibited.
68. Customers and staff must not be allowed to interact while using the smoking area, and where possible a separate smoking area should be provided for staff. Dancers must be covered up at all times with knee length robes or coats whilst using the smoking areas.
69. Throughout the lap or table dance customers will remain seated and fully clothed, with their hands clearly visible, either resting on the arms of the chair/sofa or on the seat cushion, or customers must be asked to sit on their hands.
70. If a dancer is invited to have a drink with a customer, the dancer will remain fully clothed during this period. Dancers will not be paid commission on the sale of beverages.
71. On leaving the premises dancers will be escorted to their transport by a SIA registered door supervisor.

Vessels, vehicles and stalls

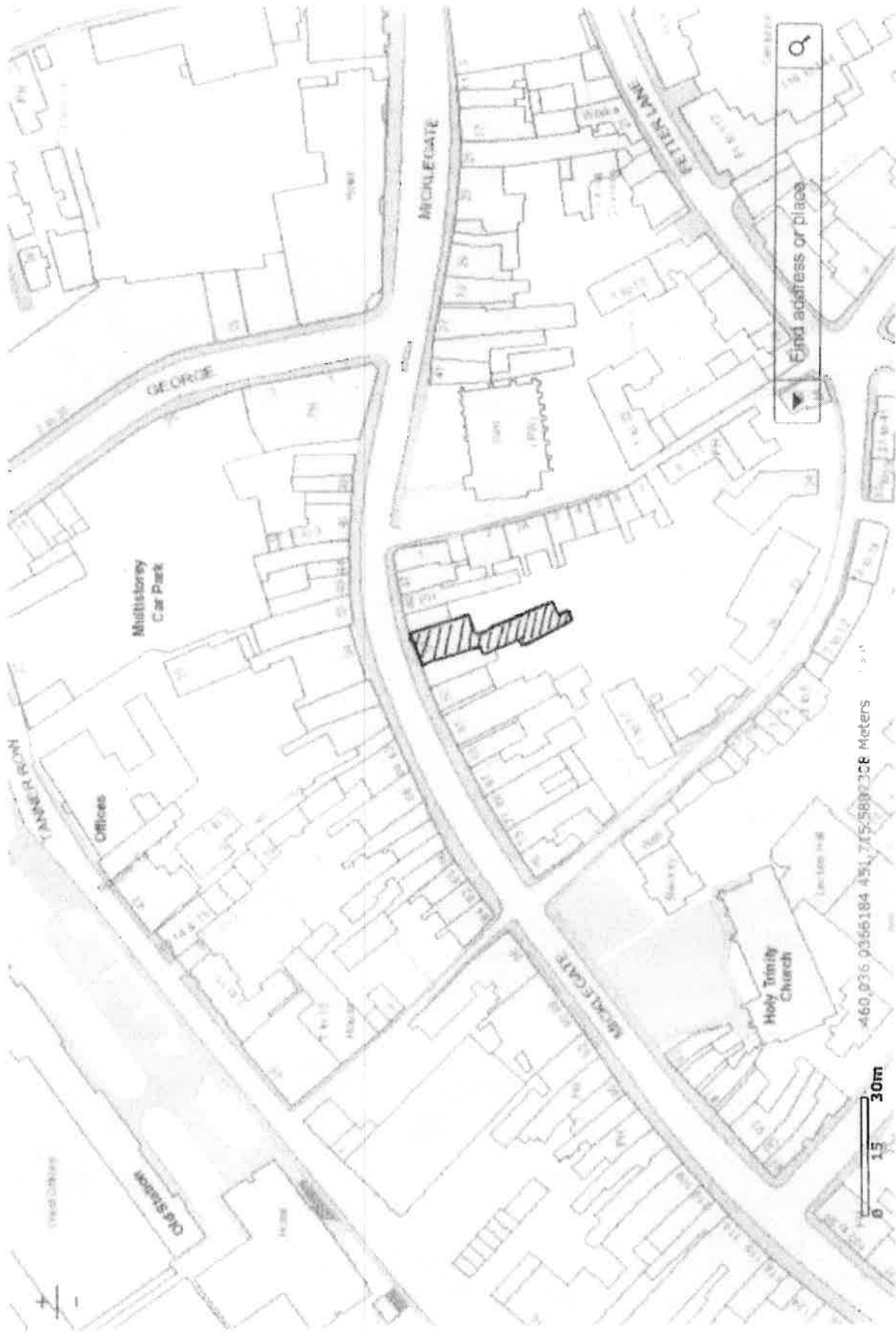
72. In the case of licensed premises that are a vessel, vehicle or stall, the licensee shall not move the vessel, vehicle or stall from the location specified in the licence unless 28 days written notice is given to the council of such intended removal. The council may require the licensee to lodge such written application as it may deem appropriate and pay such a fee as it may deem reasonable in respect of such application.
73. The requirements of condition 72 will not apply to a vessel, vehicle or stall habitually operating from a fixed location, which is regularly moved, whether under its own propulsion or otherwise, from another place for storage purposes. This place must be specified in the licence and must not be used for the purposes for which the licence is granted and any other location than that specified in the licence.
74. Vehicles must not be used for personal solicitation, touting or advertising.

Variation of conditions

75. The council may, at the time of grant or renewal of the licence, waive, modify or vary these conditions or impose additional conditions as appropriate.
76. The licensee may apply to the council to vary any of the terms of the licence.
77. Applications to vary conditions of the licence must be advertised by the licensee in the same manner as the application for the grant, renewal or transfer of the licence.

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ANNEX 5



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Legislation and Policy Considerations

1. The following provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) apply to this application:
 - Paragraph 10 (Grant, renewal and transfer of licences for sex establishments) relates to the process which the applicant must have followed for the application to be considered valid.
 - Paragraph 12 (Refusal of licences) relates to the grounds under which an application shall not be granted and also describes the powers by which the licensing authority has a discretion to refuse the licence.
 - Paragraph 13 (Power to prescribe standard conditions).

2. The following provisions of the Home Office Guidance apply to this application:
 - Paragraphs 3.23 – 3.24 (Objections) explain who can object and how this is done and that the applicant must be made aware of the general grounds for the objection before the application is determined.
 - Paragraphs 3.25 – 3.26 (Hearings) explain that the applicant must be given the opportunity to appear and be heard in front of the sub-committee considering the application. Schedule 3 does not make any explicit provision for objectors to be heard, this is left to the discretion of the appropriate authority.
 - Paragraphs 3.27 – 3.31 (Grounds for refusal).
 - Paragraphs 3.32 – 3.38 (Relevant locality) define the meaning of “relevant locality” and the powers of the appropriate authority to decide the maximum number of premises allowed in a particular locality.
 - Paragraphs 3.39 – 3.42 (Licence conditions) explain that once the decision is made to grant, the appropriate authority can attach conditions specific to the individual premises and/or standard conditions for the particular type of establishment. These conditions should not duplicate conditions placed on a premises licence issued under the Licensing Act 2003 and should be appropriate to the activities authorised by the licence.
 - Paragraphs 4.19 – 4.21 (European Convention on Human Rights) explain whilst applications from existing operators can be refused on one or more grounds set out in paragraph 12 of schedule 3 of the 1982 Act, account must be taken of rights existing operators may have under Article 1 of Protocol 1 to the European Convention

which protects the peaceful enjoyment of their possessions (including licences) and article 10 (freedom of expression).

4. City of York Council's Policy for the Licensing of Sex Establishments Licensing Policy and the Standard Conditions for Sexual Entertainment Venues applies to this application.
5. The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.
6. The Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property, which may include licences in existence, and the protection of private and family life.
7. The Committee is reminded that it must comply with the Council's Public Sector Equality Duty (as required to do so under s.149 of the Equality Act 2010), and have due regard to the potential impact on gender equality.

NOTE FOR MEMBERS

Extracts from Home Office Guidance for England and Wales relating to Sexual Entertainment Venues.

3.23 When considering an application for the grant, renewal or transfer of a licence the appropriate authority should have regard to any observations submitted to it by the chief officer of police and any objections that they have received from anyone else within 28 days of the application. Any person can object to an application but the objection should be relevant to the grounds set out in paragraph 12 of Schedule 3 for refusing a licence. Objections should not be based on moral grounds/values and local authorities should not consider objections that are not relevant to the grounds set out in paragraph 12. Objectors must give notice of their objection in writing, stating the general terms of the objection.

3.24 Where the appropriate authority receives notice of any objection the authority shall, before considering the application, give notice in writing of the general terms of the objection to the applicant, However, the appropriate authority shall not without the consent of the person making the objection reveal their name or address to the applicant.

Hearings

3.25 Under paragraph 10(19) of Schedule 3, before refusing an application, all applicants should be given the opportunity to appear before and be heard by the local authority committee or sub-committee that is responsible for determining the application.

3.26 Schedule 3 does not make explicit provision for objectors to be heard, but this does not mean that such hearings cannot take place. Rather, case law on this matter states that while local authorities are under no obligation to offer an oral hearing to objectors, they may do so at their discretion. Although a local authority is under a duty to consider any objections made within 28 days of the application, it has discretion to hear later objections provided the applicant is given the opportunity to deal with those objections.

Refusal of a Licence

3.27 Paragraph 12 of Schedule 3 sets out the grounds for refusing an application for the grant, renewal or transfer of a licence.

A licence must not be granted:

- a) to a person under the age of 18;

- b) to a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
- c) to a person, other than a body corporate, who is not resident in an EEA State or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- d) to a body corporate which is not incorporated in an EEA State; or
- e) to a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

3.28 A licence may be refused where:

- a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- b) if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
- c) the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;
- d) that the grant or renewal of the licence would be inappropriate, having regard -
 - i. to the character of the relevant locality;
 - ii. to the use to which any premises in the vicinity are put; or
 - iii. to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

3.29 A decision to refuse a licence must be relevant to one or more of the above grounds.

3.30 When determining a licence application, the local authority must have regard to any rights the applicant may have under Article 10 (right to freedom of expression) and Article 1, Protocol 1 (protection of property) of the European Convention on Human Rights.

3.31 The Provision of Services Regulations 2009 amended Schedule 3 to the 1982 Act to state that, if having considered an application for the grant, renewal or transfer of a licence, the appropriate authority decides to refuse it if one or more of the above grounds, it must provide the applicant with reasons for the decision in writing.

Relevant Locality

3.32 Paragraph 12(3)(c) and 12(3)(d) of Schedule 3 allow appropriate authorities to refuse applications on grounds related to an assessment of the “relevant locality”. A licence can be refused if either, at the time the application is determined the number of sex establishments, or sex establishments of a particular kind, in the relevant locality is equal to or exceeds the number that the authority considers appropriate for that locality; or that a sex establishment would be inappropriate having regard to the character of the relevant locality, the use to which any premises in the vicinity are put or the layout, character or condition of the premises. Nil may be the appropriate number.

3.33 Schedule 3 to the 1982 Act does not define “relevant locality” further than to say that:

- (a) in relation to premises, it is the locality where they are situated; and
- (b) in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment.

3.34 Clearly, the decision regarding what constitutes the ‘relevant locality’ is a matter for the appropriate authority. However, such questions must be decided on the facts of the individual application.

3.35 Therefore, it is reasonable and potentially useful to future applicants, for a local authority to decide in advance of receiving any applications that certain areas are, or are not, appropriate locations for a sex establishment or a particular number of sex establishments. Nevertheless, all applications must be considered on their individual merits.

3.36 When considering a particular application case law has indicated that the relevant locality does not have to be a clearly pre-defined area nor are local authorities required to be able to define its precise boundaries. Therefore, while a local authority is not prevented from defining the exact area of the relevant locality, it is equally free to conclude that it simply refers to the area which surrounds the premises specified in the application and does not require further definition. Nevertheless a local authority’s view of what constitutes a locality could be open to challenge if they took a completely unreasonable view of the area covered, for example, by concluding two sex establishments 200 miles away from one another were in the same locality. Case law indicates that a relevant locality cannot be an entire local authority area or an entire town or city.

3.37 Once the appropriate authority has determined the relevant locality, it should seek to make an assessment of the ‘character’ of the relevant locality

and how many, if any, sex establishments, or sex establishments of a particular kind, it considers appropriate for that relevant locality.

3.38 Section 27 amends paragraph 12(3)(c) of Schedule 3 to allow local authorities to determine an appropriate number of sex establishments of a particular kind. In practice, this means that the appropriate authority may, for example, decide that a particular locality is suitable for a sex shop but is not suitable for a sexual entertainment venue or vice versa.

Licence Conditions

3.39 Once the appropriate authority has decided to grant a licence they are able to impose terms, conditions and restrictions on that licence, either in the form of conditions specific to the individual licence under paragraph 8 of Schedule 3 or standard conditions applicable to all sex establishments, or particular types of sex establishments, prescribed by regulations made by the appropriate authority under paragraph 13 of Schedule 3.

3.40 Paragraph 13 provides examples of the matters that standard conditions may address which include but are not restricted to:

- The hours of opening and closing
- Displays and advertisements on or in sex establishments
- The visibility of the interior of a sex establishment to passers-by
- Any change of use from one kind of sex establishment to another

3.41 Where the appropriate authority decides to produce standard conditions under paragraph 13 they will apply to every licence granted, renewed or transferred by the authority unless they have been expressly excluded or varied.

3.42 Most sexual entertainment venues will require a 2003 Act licence as well as a sex establishment licence. Where this is the case, local authorities should avoid duplicating licence conditions and should ensure that conditions imposed on each licence are relevant to the activities authorised by that licence. For example, conditions relating to the sale of alcohol should only appear on a premises licence or clubs premises certificates and should not be imposed on sexual entertainment venue licence. Likewise, conditions relating the provisions of relevant entertainment should appear on the sexual entertainment venue licence and not a premises licence or club premises certificate. Local authorities should also avoid imposing conditions on either licence that are contradictory.

Licensing & Regulatory Committee**22 February 2021**

Report of the Assistant Director for Planning and Public Protection

Update on underage sales enforcement activity**Summary**

1. The purpose of this report is to inform Members of the activity undertaken to prevent illegal sales of age restricted products.

Recommendations

2. That Members note the content of the report.

Reason: This report is for information only and is provided following the request of Members at the meeting on 17 November 2020.

Background

3. The City of York Council's Executive approved an updated 'Enforcement Policy' for Public Protection, Housing Services and Community Safety on 28 September 2017. Each year, a report is taken to the Executive Member for Economy and Strategic Planning on our activity under the policy. As part of that process, the Executive Member also considers the enforcement priorities for Public Protection in the year ahead. Included in the priorities for 2020-21 was:

- Preventing the supply of dangerous products including illegal supplies of alcohol, tobacco and potentially harmful foods.

This includes activity to prevent illegal sales of age restricted products such as alcohol, tobacco and knives (all minimum age 18). It involves advising businesses of their legal obligations and undertaking 'test purchases' with the help of young persons to ensure they are complying with their obligations. We respond to complaints and other sources of intelligence about problem premises and areas of anti-social behaviour, we also carry out some routine purchases to test wider compliance. In relation to any other age restricted products including spray paints (minimum age 16), fireworks (18) and solvents (18) we carry out activity in response to complaints and intelligence about particular problem businesses.

4. The City of York Council’s website has a page dedicated to underage sales and we advise businesses (including those we act for as Primary Authority) how to avoid making illegal sales. We also consider the provisions for ‘protecting children from harm’ on all applications for premises licences. Our advice is as follows:-
 - We encourage retailers to operate at least a 'challenge 21 policy'. This means that if they think a customer buying an age restricted product looks under the age of 21 they should ask if they have proof of age. Some retailers go further and ask purchasers for proof of age if their customer appears under 25, which we also support. It is also a requirement of the Licensing Act 2003 that premises licensed to sell/supply alcohol must have an age verification policy. We recommend that retailers only accept a drivers licence or passport as proof of age, as well as identification that contains the PASS hologram.
 - We ask that customers respect retailers who ask for proof of age, as the consequences of getting this wrong could be severe.
 - Our website also lists the minimum age restriction for various products.

5. In June 2020 as we emerged from the first national lockdown imposed in response to the outbreak of the coronavirus, Trading Standards Officers provided advice to businesses as part of the City of York Council’s ‘Let’s Be York’ guidance for retailers on age restricted sales. Retailers were reminded that it was lawful to ask potential customers to temporarily remove a face coverings in order to help establish whether someone was above the legal age for purchasing age restricted products.

6. In late October 2020, we began receiving complaints about the anti-social use of fireworks, particularly in the east of the city. Trading Standards Officers were also keen to establish whether customers were routinely being asked to remove face coverings when attempting to buy age restricted products as the law allowed.

7. In accordance with the ‘Age Restricted Products and Services: A Code of Practice for Regulatory Delivery’, Trading Standards Officers enlisted the help of a 16 year volunteer to make a series of test purchases. The results and how they compare to previous years are shown in the table below:

	Target	2020-21 to date	2019-20	2018-19	2017-18	2016-17
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% underage sales of alcohol	Less than 10%	50% 10 visits 5 sales	0% 2 visits 0 sales	0% 5 visits 0 sales	0% 4 visits 0 sales	N/a 0 visits
% underage sales of tobacco	Less than 10%	N/a 0 visits	N/a 0 visits	0% 3 visits 0 sales	N/a 0 visits	N/a 0 visits
Other	Less than 10%	100% Fireworks (1 visit 1 sale)	50% E cig (4 visits 2 sales) 100% Knives (1 visit, 1 sale)	0% E cig (2 visits, 0 sales) Knife (4 visits 0 sales) Betting Machines (4 visits 0 sales)	15.4% Knives (13 Visits 2 sales)	0% E cig (5 visits 0 sales)
Total	Less than 10%	54.5% 11 visits 6 sales	42.9% 7 visits 3 sales	0% 18 visits 0 sales	11.8% 17 visits 2 sales	0% 5 visits 0 sales

Table 1. No of visits and illegal sales

8. As can be seen in the table above, there were a higher number of illegal sales this year and this is likely to be due to the purchaser wearing a face covering and staff not asking for it to be removed. As can be seen, the number of illegal sales fluctuates from year to year as different shops and different products are tested as well as different volunteers being used. We set a nominal target of 'fewer than 10% sales' as we target shops/areas where there are complaints i.e. higher risk premises. Against this background, the fact that there are refusals every year (and in most years the majority of attempts are refused) is generally seen as positive.
9. All illegal sales resulted in warning letters to the seller and the business owner. The letter re-iterated that it is lawful to ask potential customers to remove their face coverings to verify their age. The businesses that refuse sales are also written to and advised of the results. We will attempt another test purchase from those businesses that failed later in the year. In recent years, we have found all businesses have passed the test purchase on the re-visit having tightened their internal procedures.

Consultation

10. There is no consultation in connection with this report.

Options and analysis

11. There are no options and/or analysis, the report is for information.

Council Priorities

12. The action taken in relation to underage sales supports the Council's priorities in respect of the following:
- Good health and wellbeing
 - Safe communities and culture for all

Implications

13. **Financial:** There are no financial implications associated with this report.
14. **Human Resources:** There are no Human Resources implications associated with this report.
15. **Equalities:** There are no equalities implications associated with this report.
16. **Legal:** It is a legal requirement for the council to consider its approach in respect of preventing illegal sales of tobacco (Children and Young Persons (Protection from Tobacco) Act 1991, section 5) and spray paint (Anti-Social Behaviour Act 2003, s.54A) on an annual basis – hence the specific inclusion in the report to the Executive Member.
17. **Crime and Disorder:** Formal enforcement action contributes to reducing anti-social behaviour and dishonest trading.
18. **Information Technology (IT):** There are no IT implications associated with this report.
19. **Other:** There are no other implications associated with this report.

Risk Management

20. There are no risk management implications associated with this report as it is for information only.

Contact Details

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Chief Officer Responsible for the report:

Mike Slater,
Assistant Director for Planning and Public Protection

**Report
Approved**

Date 4/2/21

Specialist Officer Implications: None

Wards Affected:

All

Background Papers:

None

Annexes

None

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Licensing & Regulatory Committee

22 February 2021

Report from the Assistant Director – Planning and Public Protection

Taxi Licensing Policy

Summary

1. This report advises Members of the Department for Transport (DfT) 'Statutory Taxi and Private Hire Vehicle Standards' (the Standards) and changes that are required to the Taxi Licensing Policy to implement the recommendations within the Standards.
2. It asks Members to determine if a formal public consultation should take place with regards to some of the recommendations within the Standards that are not already implemented by the Council. It also asks if this consultation should cover other proposed changes to the Policy, such as environmental standards, vehicle age limits, vehicle colour, signage, tinted windows and vehicle testing standards. It being noted that the Coronavirus pandemic may have altered the context in which the results of earlier consultation on these matters was based (and in respect of the environmental standards and vehicle age Policy the Councils Executive have asked for further consultation prior to considering the Licensing Committee's recommendations).
3. It also asks Members to determine that until such time that the formal public consultation has taken place, and the reviewed Policy is in place, that private hire operator licences are only issued for a maximum period of 12 months.

Recommendations

4. That Members take into consideration the requirements of and recommendation within the Standards and approve Option 1 of this report, namely:
 - i) Ask Officers to undertake a formal public consultation with regards to the recommendations from the DfT Statutory Taxi and Private Hire Vehicle Standards detailed at paragraph 15 of this report and other

potential changes. Bringing the results of the consultation back to this Committee.

- ii) Ask Officers to also undertake a formal public consultation with regards to additional changes to the Taxi Licensing Policy, outside the scope of the Standards.
- iii) Ask Officers to issue private hire operators licences, grants and renewals, for a maximum period of 12 months, with immediate effect, until such time that the Taxi Licensing Policy is reviewed.

5. Reason:

- i) To gauge interested parties views on the recommendations within the DfT Statutory Taxi and Private Hire Vehicle Standards, and on additional changes to the Taxi Licensing Policy.
- ii) As private hire operator licences can be issued for a maximum period of five years, this will enable the Council to make sure appropriate conditions are placed on licences at the time of grant or renewal, following the consultation on and implementation of the reviewed Taxi Licensing Policy.

Background

- 6. The Standards were published by the DfT in July 2020. As an implementation date was not provided with the Standards, as is usually the case, it means the Standards were operative from the date of publication. As these Standards are statutory, Licensing Authorities must have regard to the recommendations when exercising relevant functions or justify why they have departed from them and the reason for that departure.
- 7. The DfT has published the Standards as hackney carriages (taxis) and private hire vehicles are a 'high-risk environment'. For example, links between the trade and child sexual abuse and exploitation have been established in many areas of the country and other investigations continue.
- 8. It is the Police and Crime Act 2017 which enables the Secretary of State for Transport to issue statutory guidance on exercising taxi and private hire vehicle licensing functions to protect children and vulnerable individuals who are over 18 from the harm when using these services.

9. The main focus of the Standards is on protecting children and vulnerable adults, however all passengers will benefit from the Standards.
10. A copy of the Standards can be found at Annex 1, they cover the following points:
 - Administering the Licensing Regime
 - Gathering and Sharing Information
 - Decision Making
 - Driver Licensing
 - Vehicle Licensing
 - Private Hire Vehicle Operator Licensing
 - Enforcing the Licensing Regime
11. The Council already implement a number of the requirements within the Standards in the existing Taxi Licensing Policy (the Policy) and licence conditions, further information is provided within the Analysis below.
12. The Council's current Policy is available on the website, link provided below.

Consultation

13. The DfT formally consulted on the Standards from 12 February to 22 April 2019. The consultation document was entitled 'Taxi and Private Hire Vehicles Licensing: Protecting Users – Consultation on Statutory Guidance for Licensing Authorities'. York's Hackney Carriage and Private Hire Associations were made aware of the DfT consultation.
14. This report is seeking permission to consult on making changes to the Taxi Licensing Policy with a view to potentially incorporating the recommendations in the Standards. All holders of driver, vehicle and operators licences will be consulted as well as stake holders and the public.
15. It is proposed that the following recommendations within the Standards form part of the consultation:
 - a) DBS Update Service
 - b) Licensee self-reporting (arrest and release, charge or conviction)
 - c) National register of taxi and private hire vehicle driver licence refusals and revocations – 'NR3'

- d) Basic disclosure checks on vehicle proprietors
- e) CCTV
- f) Use of passenger carrying vehicles (PCV) licensed drivers

16. The consultation could also be used to help Members determine whether additional changes, outside the scope of the Standards, are appropriate, for example further consultation on the environmental standards, age limit of taxis, vehicle colour, signage, tinted windows and vehicle testing standards.

Options

17. Option 1

- i) Ask Officers to undertake a formal public consultation with regards to the recommendation from the DfT Statutory Taxi and Private Hire Vehicle Standards as detailed at paragraph 15 of the report and other changes to the Policy. Bringing the results of the consultation back to this Committee.
- ii) Ask Officers to also undertake a formal public consultation with regards to additional changes to the Taxi Licensing Policy, outside the scope of the Standards.
- iii) Ask Officers to issue private hire operators licences, grants and renewals, for a maximum period of 12 months, with immediate effect, until such time that the Taxi Licensing Policy is reviewed.

18. Option 2

- i) Ask Officers to undertake a formal public consultation with regards to the recommendation from the DfT Statutory Taxi and Private Hire Vehicle Standards as detailed at paragraph 15 of the report and other changes to the Policy. Bringing the results of the consultation back to this Committee.
- ii) Determine that a public consultation with regards to additional changes to the Taxi Licensing Policy is not required at this time.
- iii) Ask Officers to issue private hire operators licences, grants and renewals, for a maximum period of 12 months, with immediate effect, until such time that the Taxi Licensing Policy is reviewed.

19. Option 3

- i) Determine that further formal public consultation is not required, giving reason why. Ask Officer to amend the Taxi Licensing Policy to bring it in line with the requirements of the DfT Statutory Taxi and Private Hire Vehicle Standards. Bringing the amendment Policy back to this Committee to make recommendation to the Full Council.
- ii) Ask Officers to issue private hire operators licences, grants and renewals, for a maximum period of 12 months, with immediate effect, until such time that the Taxi Licensing Policy is reviewed.

Analysis

Administering the Licensing Regime

20. Licensing Policies – as recommended in the Standards, the Council has published a cohesive Policy, which is available on the website. The Policy includes matters such as the licensing process, suitability of applicants and drivers as ‘fit and proper’ persons, licence conditions and vehicle standards. The Policy was published in January 2017 and was amended in 2019. The Council’s Policy is currently reviewed in line with requirements to undertake an unmet demand survey, once every three years, the Standards recommend that the Policy is reviewed five yearly.
21. Duration of Licences – as recommended in the Standards, North Yorkshire Police (NYP) use their powers under Common Law Police Discourse to notify the Council if they believe a licensed driver is a risk to the travelling public. Following receipt of this information the Council determines if the driver remains a fit and proper person to hold a drivers licence.
22. Duration of Licences – as recommended in the Standards, in line with the requirements of the Local Government (Miscellaneous Provisions) Act 1976 (as amended) the Council issues driver licences for three years and private hire operators licences for five years, unless there are grounds to issue the licence for a lesser period. Vehicle licences are issued for one year.
23. Whistleblowing – as recommended in the Standards, the Council has a whistleblowing policy that is available to all staff on the intranet.

24. Consultation at the local level – as recommended in the Standards, prior to implementation, the Council consulted the licence trade, stakeholders and public with regards to the content of the Policy and any reviews. This included writing to the Hackney Carriage and Private Hire Associations and all driver, vehicle and operator licence holders. Where possible consultations are done online.
25. Consultation at the local level – as recommended in the Standards, the Council has a joint working relationship with the five West Yorkshire Taxi Licensing Authorities, through this working relationship we are aligning Policies where possible. The council also has a close working relationship with the North Yorkshire Authorities, sharing best practice and Policy decisions.
26. Changing licensing policy and requirements – the Standards recommend that any changes to licensing requirements should be followed by a review of the licences already issued. As recommended in the Standards, the Council always includes a lead in time with regards to changes to the Policy and/or licence conditions. Furthermore, as recommended in the Standards, the Council does consider each case on its own merits, with reason given when decisions are made.

Gathering and Sharing Information

27. The Disclosure and Barring Service (DBS) – ‘Taxi Licensing City of York’ is a registered body with the DBS, the Licensing Manager is the Lead Signatory with members of the Licensing Section as Countersignatories. As recommended in the Standards it is a requirement that enhanced DBS checks are undertaken on all new driver applicants, prior to being licensed, and all existing licensed drivers, at least once every three years.

The DBS Update Service

28. Subscription to the DBS Update Service allows those with standard and enhanced certificates to keep these up to date online and, with the individual’s consent, allows nominees to check the status of a certificate online at any time.
29. It is not currently a requirement of the Policy that new applicants and licensed drivers must subscribe to the Update Service. As this

recommendation would be an amendment to the Taxi Licensing Policy, it is proposed that this forms part of the formal public consultation.

30. Common Law Police Disclosure – NYP use their powers under Common Law Police Disclosure to notify the Council if they believe a licensed driver is a risk to the travelling public.
31. Licensee self-reporting – it is currently a requirement of the Policy that licensed drivers notify the Council in three days of any convictions (including penalty points), the Council then reviews if the driver remains fit and proper to hold a licence. The Standards recommend that the notification should be made in 48 hrs of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. As this recommendation would be an amendment to the Policy, it is proposed that this forms part of the formal public consultation.
32. Referrals to the DBS and the Police – In conjunction with the Councils Local Authority Designated Officer (LADO) and/or Police, if required, a referral is made to the DBS. Furthermore, if the Licensing Section receives relevant information relating to a licensed driver with regards to a child or vulnerable adult, officers always liaise with the LADO and/or police, and the Councils school / adult transports contract section if the drivers undertakes contract work.
33. Working with the Police – Licensing Officers have a good working relationship with the Police, sharing information as and when required, in line with the requirements of data protection. Driver licences have been suspended or revoked in relation to information received from the Police. Joint, ad-hoc, operations take place throughout the year with regards to road side vehicle safety checks, usually also including officers for the DVSA.
34. Sharing licensing information with other licensing authorities – as recommended in the Standards, it is currently a requirement of the application process that a new applicant must disclose if they hold or have previously held a licence with another authority, and if they have had an application for a licence refused or a licence revoked or suspended by any other licensing authority. Application forms advise that it may be a criminal offence to make a false statement or omit to provide the information requested.

35. Sharing licensing information with other licensing authorities – the Standards recommend that licensing authority should use tools such as ‘NR3’ to share information. The Council are registered with the National Anti-Fraud Network (NAFN) (for work undertaken by Trading Standards Officers) who have developed the national register of taxi and private hire vehicle driver licence refusals and revocations, known as ‘NR3’, the Council do not currently use the national register. As this recommendation would be an amendment to the Policy, it is proposed that this forms part of the formal public consultation. Also, if the Policy is amended, service level agreements would need to be in place between NAFN and the Council with regards to the use of this register.
36. Multi-agency Safeguarding Hub (MASH) – as recommended in the Standards, the Council operators a MASH, Licensing Officers attend a meeting of the MASH if matters relating to a licensed driver(s) and/or a licensed operator(s) are to be discussed. Driver licenses have been suspended or revoked in relation to information received from the LADO and/or Police through the sharing of necessary and relevant information.
37. Complaints against licensees – as recommended in the Standards, the Council logs complaints against licensed drivers on their driver record. Complaints are monitored by the Licensing Enforcement Officer and brought to the attention of the Licensing Manager if required, for example due to the nature of the complaint, the number of complaints or a pattern in the type of complaints. The Licensing Manager will then determine the appropriate course of action.
38. Complaints against licensees – depending on the nature of complaint the Council contacts the driver if adequate information is available. If the complaint is upheld, verbal and/or written advice may be given, a written warning may be issued, the licence may be suspended or revoked and in some cases court action may also follow. At any time during the duration of the licence it can be determined that a licensed driver is not a fit and proper person to hold a licence. Information with regards to how to make a complaint is available on the Council’s website.
39. Overseas convictions – as recommended in the Standards, it is a requirement that applicants that have resided outside of the UK provide a criminal record check from the country/countries in which they have previously resided (since the age of 18), this document must be provided in English. If a criminal record check or Certificate of Good

Conduct cannot be provided, the applicant must provide a signed declaration detailing the attempts made to obtain a check. The declaration must also state whether they have been found guilty or have been convicted or charged with any offences against the law in any country. This declaration must be signed in the presence of a solicitor and be duly countersigned, it must also be stamped by the solicitor.

Decision Making

40. Administration of the licensing framework – as recommended in the Standards, the Council has a scheme of delegation in place for setting policies, determining licence applications, reviews and renewals, and the setting of and attachment of conditions when considered appropriate.
41. Training decision makers – as recommended in the Standard, Officers who determine licence applications are experienced and trained. Public safety is paramount with regards to all decisions made. Members of this Committee have received basic training on taxi licensing matters.
42. The regulatory structure – it is a recommendation of the Standards that councils operate with a 'Regulatory Committee' or 'Board' that is convened at periodic intervals to determine licensing matters, with individual cases being considered by a panel of elected and suitably trained councillors drawn from the larger Regulatory Committee or Board. The Council does have a Licensing and Regulatory Committee (this Committee) that is convened at periodic intervals to consider/determine taxi licensing matters, such as licensing policy/conditions, and when it is in the public interest to do so determine grants, renewals, suspension or revocations of licences. At this time the Councils constitution and scheme of delegation are being reviewed. The recommendation within the Standards will be taken into consideration as part of that review. The decision making structure for taxi licensing matters will be brought to this Committee in due course.
43. Fit and proper test – the Council is aware of and applies the fit and proper person test.
44. Criminal convictions and rehabilitation – as recommended in the Standards the Council has a policy in place to 'determine the suitability of applicants and licensees as drivers in taxi and private hire licensing'. This policy is taken into consideration with regards to convictions

whether they are declared by the applicant/driver or identified through the criminal record check process.

Driver Licensing

45. Criminality checks for drivers – as covered in paragraphs 27.
46. Safeguarding awareness – as recommended in the Standards, it is a requirement of the Policy that new driver applicants have to undertake a 'Safeguarding and Knowledge' training day and pass a test. This training covers safeguarding in relation to children and vulnerable adults, including how to raise concerns. This training also covers 'County Lines' exploitation. It is also a requirement that licensed drivers undertaken a half day refresher training course every three years on safeguarding matters.
47. Language proficiency – as recommended in the Standards, it is a requirement of the Policy that oral and written English language skills are tested, this is currently done as part of the 'Safeguarding and Knowledge' training day and test. However, as part of our joint work with the West Yorkshire Authorities and earlier recommendations of this Committee, a training provider will be sought to deliver training and testing in oral and written English language skills.

Vehicle Licensing

48. Criminality checks for vehicle proprietors – it is recommended in the Standards that Licensing Authorities should require a basic disclosure from the DBS and that a check is undertaken annually on vehicle proprietors. The Council does not require basic disclosure checks for vehicle proprietors, although a number of proprietors are also licensed drivers and therefore undertake an enhanced DBS check at least once every three years as part of the requirements for drivers. As this recommendation would be an amendment to the Policy, it is proposed that this forms part of the formal public consultation.
49. In-vehicle visual and audio recording – CCTV – the installation of CCTV is covered within the Policy (Security Measures). The installation is voluntary and all costs are borne by the vehicle licence proprietor. As the installation is a modification of the vehicle, it must be approved by the Council to make sure it is installed safely and securely. Vehicle licence proprietors and drivers must also comply with the requirements of the Information Commissioners Office. As recommended in the

Standards it is proposed that this forms part of the formal public consultation.

50. Stretched Limousines – as recommended in the Standards, the licensing of stretch limousines is covered in the Policy. At this time the Council do not licence any stretch limousines, if an application was received it would be considered on its own merits in line with the executive vehicle policy. Arrangements may need to be made to inspect such vehicles due to their length.

Private Hire Vehicle Operator Licensing

51. As recommended in the Standards, it is a requirement of the Policy that private hire operator applicants and licence holders undertake a basic disclosure from the DBS prior to the grant and renewal of a licence, unless they are also licensed drivers and have therefore undertaken an enhanced DBS check at least once every three years.

52. Bookings and dispatch staff – it is not a requirement of the existing Policy for licensed operators:

- to keep a register of all staff that will take bookings or dispatch vehicles,
- to evidence that they have had sight of a Basic DBS check on individuals listed in the register,
- to ensure that outsource bookings have comparable protections applied by the company to which they outsource,
- to have policies on employing ex-offenders

As implementing such a recommendation would be an amendment to the Policy, it is proposed that this forms part of the formal public consultation.

53. Record keeping – as recommended in the Standards, it is a requirement of the Policy that licensed operators keep records for a set time period.
54. Use of passenger carrying vehicles (PCV) licensed drivers – it is recommended in the Standards that ‘the use of a driver who holds a PCV licence’ and ‘the use of a public service vehicle (PSV)’ (vehicles that carry more than 8 passengers) such as a minibus to undertake a private hire vehicle booking, should not be permitted as a condition of the private hire operator’s licence without the informed consent of the booker. As this recommendation would be an amendment to the Taxi

Licensing Policy, it is proposed that this forms part of the formal public consultation.

55. As detailed in the recommendation in Option 1 at paragraph 19, if, following the formal consultation, it is determined to implement the requirement of the Standards detailed in paragraphs 55 and 57, it will require the Policy to be duly amended with regards to private hire operator licence conditions. As operator licences can be issued for a maximum period of five years, the recommendation within Option 1 is that operator licences are granted or renewed for a maximum period of 12 months until such time that the Policy is reviewed, to allow any Policy changes to become conditions of licence the following year (and not wait for five years to introduce).

Enforcing the Licensing Regime

56. Joint authorisation of enforcement officers – as recommended in the Standards, the Council has a joint working relationship in place with the five West Yorkshire Authorities, this includes joint authorisation regards to enforcement activities.
57. Setting expectation and monitoring – as recommended in the Standards, the Council provides guidance to all new driver applicants, this is available on the Council's website or in hard copy. This guidance provides details of the application requirements/process, all licence conditions and links to the Taxi Licensing Policy. Similar guidance is provided to licence holders prior to the renewal of licences.
58. Suspension and revocation of driver licences – as recommended in the Standards, upon receipt of relevant information regarding a licensed driver Council Officers consider the options available to them before determining the appropriate course of action. Before a decision is made all evidence is considered and if possible the drivers is given the opportunity to state their case, if they wish. Licences have been reissued following a revocation if new information is available. If a suspension is issued for a minor issue, on occasion this can be addressed through additional training.

Council Priorities

59. The taxi licensing functions undertaken by the Council are statutory, supporting the new and existing trade, as well as local residents and

visitors. Through these functions, the policy supports the Council's Plan of a good quality of life for everyone.

Implications

60. The direct implications arising from this report are:

- (a) **Financial** – There are no financial implications.
- (b) **Human Resources (HR)** - There are no HR implications.
- (c) **Equalities** – There are no equalities implications. If a formal public consultation is approved by this Committee, an equalities impact assessment will be undertaken prior to bringing the results of the consultation and reviewed Taxi Licensing Policy back to this Committee.
- (d) **Legal** – The Standards are applied to local authorities having regard to the Policy and Crime Act 2017, which enables the Secretary of State for Transport to issue statutory guidance to local authorities as to how hackney carriage and private hire licensing should be undertaken to protect children and vulnerable adults when using taxis and private hire vehicles. The statutory guidance states at 1.3 that:

“The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.”

The guidance also states at 2.6, 2.7 and 2.8: (wording highlighted in bold type is highlighted in the Standards, not by the author of this report)

*“The document sets out a framework of policies that, under section 177(4), licensing authorities **”must have regard”** to when exercising their functions. These functions include developing, implementing and reviewing their taxi and private hire vehicle licensing regimes. “Having regards” is more than having a cursory glance at a document before arriving at a preconceived conclusion”.*

*“Having regard” to these standards requires public authorities, in formulating a policy, to give considerations the weight which is proportionate to the circumstances. **Given that the standards***

have been set directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated. It is not a question of box ticking; the standards must be considered rigorously and with an open mind.

“Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority’s practice, and that any failure to adhere to the standards without sufficient justifications could be detrimental to the authority’s defence.”

The legal duty is a “have regard” duty. This means that the Licensing Authority should not take the standards into account when exercising any relevant functions. If the Authority fails to do this, without giving compelling reasons, then its decisions could be subject to legal challenge.

The Standards themselves have the legal status of guidance and therefore do not bind the decision maker.

- (e) **Crime and Disorder** – There are no crime and disorder implications.
- (f) **Information Technology (IT)** - There are no IT implications.
- (g) **Property** - There are no property implications.
- (h) **Other** - There are no other implications.

Risk Management

61. There are no known risks associated with this report.

Contact Details

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**Report
Approved**

Date 11/02/21

Specialist Implications Officer(s)

Wards Affected:

All

For further information please contact the author of the report

Background papers

Taxi Licensing Policy

https://www.york.gov.uk/downloads/file/9715/taxi_licensing_policy

Annexes

Annex 1 – DfT Statutory Taxi and Private Hire Vehicle Standards

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Department
for Transport

Statutory Taxi & Private Hire Vehicle Standards

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1. Introduction

- 1.1 There is evidence to support the view that taxis and private hire vehicles are a high-risk environment. In terms of risks to passengers, this can be seen in abuse and exploitation of children and vulnerable adults facilitated and in some cases perpetrated by the trade and the number of sexual crimes reported which involve taxi and private hire vehicle drivers. Links between the trade and child sexual abuse and exploitation have been established in many areas and other investigations continue. Data on reported sexual assaults by taxi and private hire vehicle drivers evidence the risk to passengers; data from [Greater Manchester](#) and [Merseyside](#) suggest that, if similar offence patterns are applied across England, 623 sexual assaults per year are reported. These figures do not however account for the under reporting of crime which is estimated to be as high as 83 percent in the [Crime Survey for England and Wales](#).
- 1.2 The Policing and Crime Act 2017 enables the Secretary of State for Transport to issue statutory guidance on exercising taxi and private hire vehicle licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services. For the purposes of this document, a child is defined as anyone who has not yet reached their 18th birthday; and the term “vulnerable individual” has the same meaning as the definition of a ‘vulnerable adult’ for the purpose of section 42 of the [Care Act 2014](#), which applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there):
- (a) has needs for care and support (whether or not the authority is meeting any of those needs),
 - (b) is experiencing, or is at risk of, abuse or neglect, and
 - (c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.
- 1.3 Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it. There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. **The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.**
- 1.4 It should be noted that as policing and criminal justice is not a devolved matter, the Statutory Taxi and Private Hire Vehicle Standards issued under the Policing and Crime Act 2017 will continue to have effect in Wales although responsibility for taxi and private hire vehicle policy was devolved to the Welsh Assembly in April 2018. Should the Welsh Government introduce legislation to regulate on these issues, the standards in this document would, cease to apply.

- 1.5 All local authorities and district councils that provide children's and other types of services, including licensing authorities, have a statutory duty to make arrangements to ensure that their functions and any services that they contract out to others are discharged having regard to the need to safeguard and promote the welfare of children. This means that licensing authorities should have in place arrangements that reflect the importance of safeguarding and promoting the welfare of children. This includes clear whistleblowing procedures, safe recruitment practices and clear policies for dealing with allegations against people who work with children, as set out in the [Working Together to Safeguard Children](#) statutory guidance.
- 1.6 The Statutory Taxi and Private Hire Vehicle Standards reflect the significant changes in the industry and lessons learned from experiences in local areas since the 2010 version of the Department's Best Practice Guidance. This includes extensive advice on checking the suitability of individuals and operators to be licensed; safeguarding children and vulnerable adults; the Immigration Act 2016 and Common Law Police Disclosure (which replaced the Notifiable Occupations Scheme).
- 1.7 The standards in this document replace relevant sections of the Best Practice Guidance issued by the Department in 2010, where there is a conflict between the Statutory Taxi and Private Hire Vehicle Standards and the Best Practice Guidance the Department issue on taxi and private hire vehicle licensing, the standards in this document take precedence.

Terminology

Taxis are referred to in legislation, regulation and common language as 'hackney carriages', 'black cabs' and 'cabs'. The term '**taxi**' is used throughout this document and refers to all such vehicles. Taxis can be hired immediately by hailing on the street or at a rank.

Private hire vehicles include a range of vehicles including minicabs, executive cars, chauffeur services, limousines and some school and day centre transport services. All private hire vehicle journeys must be pre-booked via a licensed private hire vehicle operator and are subject to a 'triple licensing lock' i.e. the operator fulfilling the booking must use vehicles and drivers licensed by the same authority as that which granted its licence. The term 'private hire vehicle' is used throughout this document to refer to all such vehicles.

2. Consideration of the Statutory Taxi and Private Hire Vehicle Standards

- 2.1 The past failings of licensing regimes must never be repeated. The Department has carefully considered the measures contained in the Statutory Taxi and Private Hire Vehicle Standards and recommend that these should be put in to practice and administered appropriately to mitigate the risk posed to the public. The purpose of setting standards is to protect children and vulnerable adults, and by extension the wider public, when using taxis and private hire vehicles.
- 2.2 The Government set out in the [Modern Crime Prevention Strategy](#) the evidence that where Government, law enforcement, businesses and the public work together on prevention, this can deliver significant and sustained cuts in certain crimes. That is good news for victims and communities and it makes clear economic sense too. Educating the public on the risks of using unlicensed drivers and vehicles, how to identify the licensed trade and appropriate measure to take when using these services will protect help all passengers, more information is annexed to this document (Annex - Staying safe: guidance for passengers).
- 2.3 The Strategy committed to protect children and young people from the risk of child sexual abuse and exploitation (CSAE), by working with local authorities to introduce rigorous taxi and private hire vehicle licensing regimes. Both the [Jay](#) and [Casey](#) reports on CSAE highlighted examples of taxi/private hire vehicle drivers being directly linked to children that were abused, including instances when children were picked up from schools, children's homes or from family homes and abused, or sexually exploited.
- 2.4 The Casey Report made clear that weak and ineffective arrangements for taxi and private hire vehicle licensing had left the children and public at risk. The Department for Transport has worked with the Home Office, Local Government Association (LGA), personal safety charities, trade unions and trade bodies,

holding workshops, forums, and sharing evidence and good practice with local authorities to assist in the setting of the standards.

- 2.5 This document is published by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017 following consultation in accordance with section 177(5).
- 2.6 The document sets out a framework of policies that, under section 177(4), licensing authorities “**must have regard**” to when exercising their functions. These functions include developing, implementing and reviewing their taxi and private hire vehicle licensing regimes. “Having regard” is more than having a cursory glance at a document before arriving at a preconceived conclusion.
- 2.7 “Having regard” to these standards requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. **Given that the standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated.** It is not a question of box ticking; the standards must be considered rigorously and with an open mind.
- 2.8 Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority’s practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority’s defence. **In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in Statutory Taxi and Private Hire Vehicle Standards, and the policies and delivery plans that stem from these.** The Department has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).
- 2.9 The Statutory Taxi and Private Hire Vehicle Standards does not purport to give a definitive statement of the law and any decisions made by a licensing authority remain a matter for that authority.

3. Administering the Licensing Regime

Licensing policies

- 3.1 The Department recommends all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. This should include but not be limited to policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards.
- 3.2 When formulating a taxi and private hire vehicle policy, the primary and overriding objective must be to protect the public. The importance of ensuring that the licensing regime protects the vulnerable cannot be overestimated. This was highlighted in the [report by Dame Louise Casey CB](#) of February 2015 on safeguarding failings.

“It will be evident from this report that in many cases the activities of perpetrators take place in spheres which are regulated by the Council – taxis have been the focus of particular concern. Persistent and rigorous enforcement of the regulatory functions available to the council, including the placing of conditions on private hire taxi operator licences where appropriate, would send a strong signal that the trade is being monitored and would curtail the activities of opportunistic perpetrators whereby taxi drivers have solicited children to provide sex in return for cigarettes, alcohol or a fare free ride.”

- 3.3 The long-term devastation caused by CSAE was summarised in the same report:

“Victims suffer from suicidal feelings and often self-harm. Many become pregnant. Some have to manage the emotional consequences of miscarriages and abortions while others have children that they are unable to parent appropriately. The abuse and violence continues to affect victims into adulthood. Many enter violent and abusive relationships. Many suffer poor mental health and addiction.”

- 3.4 Rotherham Metropolitan Borough Council ('Rotherham Council') provides an example of how the systematic review of policies and procedures and the implementation of a plan to drive improvements in practice can result in a well-functioning taxi and private hire vehicle sector that is rebuilding local confidence in the industry. The history of past failings here and elsewhere is well known, but it is the transparency and resolution that Rotherham Council has demonstrated and the high standards they now require that are rebuilding public confidence.
- 3.5 One of the key lessons learned is that it is vital to review policies and reflect changes in the industry both locally and nationally. **Licensing authorities should review their licensing policies every five years, but should also consider interim reviews should there be significant issues arising in their area, and their performance annually.**

Duration of licences

- 3.6 A previous argument against issuing licences for more than a year was that a criminal offence might be committed, and not notified, during this period; this can of course also be the case during the duration of a shorter licence. This risk can be mitigated for drivers by authorities to undertaking regular interim checks. To help authorities monitor licensees' suitability, licensing authorities should engage with their police force to ensure that when the police believe a licensee presents a risk to the travelling public they use their Common Law Police Disclosure powers (see paragraphs 4.9 - 4.11) to advise them.
- 3.7 The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length at three years for taxi and private hire vehicle drivers and five years for private hire vehicle operators. Any shorter duration licence should only be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case, if a licensee has requested one or where required (e.g. when the licence holder's leave to remain in the UK is time-limited) or when the licence is only required to meet a short-term demand; they should not be issued on a 'probationary' basis.

Whistleblowing

- 3.8 It is in the application of licensing authority's policies (and the training and raising of awareness among those applying them) that protection will be provided. Where there are concerns that policies are not being applied correctly, it is vital that these can be raised, investigated and remedial action taken if required. **Licensing authorities should have effective internal procedures in place for staff to raise concerns and for any concerns to be dealt with openly and fairly.**

A report into the licensing of drivers by South Ribble Borough Council highlights the implications of not applying the agreed policies. In early August 2015, concerns were raised regarding decisions to renew the licences of drivers where there were potential incidents of child sexual exploitation. An internal review concluded that there had been failings in local investigatory procedures which might have affected the ability of the General Licensing Committee to make proper decisions, and information sharing with the police and data recording was not satisfactory.

- 3.9 The external investigation in South Ribble concluded “that there had been a lack of awareness and priority given to safeguarding and the safety of taxi [and private hire vehicle] passengers in the manner in which licensing issues were addressed”. We are pleased to note that the [report](#) concludes, “The Council have been active at every stage in responding to issues and concerns identified. It has taken steps to address operational issues in the licensing function and has engaged fully with other agencies in so doing. In the light of the above, it is not necessary to make any further recommendations.”
- 3.10 It is hoped that all licensing authorities will have learnt from these mistakes but to prevent a repeat, **local authorities should ensure they have an effective ‘whistleblowing’ policy and that all staff are aware of it.** If a worker is aware of, and has access to, effective internal procedures for raising concerns then ‘whistleblowing’ is unlikely to be needed.
- 3.11 The Public Interest Disclosure Act 1998 (PIDA), commonly referred to as whistleblowing legislation, provides protection for those that have a reasonable belief of serious wrongdoing, including failure to comply with professional standards, council policies or codes of practice/conduct. The PIDA is part of employment law. In the normal course of events, if a worker reveals information that his employer does not want revealed it may be a disciplinary offence. If someone leaked their employer’s confidential information to the press, they might expect to be dismissed for that. The PIDA enables workers who ‘blow the whistle’ about wrongdoing to complain to an employment tribunal if they are dismissed or suffer any other form of detriment for doing so. It is a qualified protection and certain conditions would have to be met for the worker to be protected. More information is available online for [employees](#) and [employers](#):

Consultation at the local level

- 3.12 Licensing authorities should consult on proposed changes in licensing rules that may have significant impacts on passengers and/or the trade. Such consultation should include not only the taxi and private hire vehicle trades but also groups likely to be the trades’ customers. Examples are groups representing disabled people, Chambers of Commerce, organisations with a wider transport interest (e.g. the Campaign for Better Transport and other transport providers), women’s groups, local traders, and the local multi-agency safeguarding arrangements. It may also be helpful to consult with night-time economy groups (such as Pubwatch) if the trade is an important element of dispersal from the local night-time economy’s activities.
- 3.13 Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and private hire vehicle sector in neighbouring areas; and **licensing authorities should engage with these areas to identify any concerns and issues that might arise from a proposed change.** Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings; this should be adopted by all authorities.

Changing licensing policy and requirements

- 3.14 **Any changes in licensing requirements should be followed by a review of the licences already issued.** If the need to change licensing requirements has been identified, this same need is applicable to those already in possession of a licence. That is not however to suggest that licences should be automatically revoked overnight, for example if a vehicle specification is changed it is proportionate to allow those that would not meet the criteria to have the opportunity to adapt or change their vehicle. The same pragmatic approach should be taken to driver licence changes - if requirements are changed to include a training course or qualification, a reasonable time should be allowed for this to be undertaken or gained. The implementation schedule of any changes that affect current licence holders must be transparent and communicated promptly and clearly.
- 3.15 Where a more subjective change has been introduced, for example an amended policy on previous convictions, a licensing authority must consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from a policy, licensing authorities should consider doing so. Licensing authorities should record the reasons for any deviation from the policies in place.

4. Gathering and Sharing Information

- 4.1 Licensing authorities must consider as full a range of information available to them when making a decision whether to grant a licence and to meet their ongoing obligation to ensure a licensee remains suitable to hold a licence.

The Disclosure and Barring Service

- 4.2 The Disclosure and Barring Service (DBS) provides access to criminal record information through its disclosure service for England and Wales. The DBS also maintains the lists of individuals barred from working in regulated activity with children or adults. The DBS makes independent barring decisions about people who have harmed, or where they are considered to pose a risk of harm to a child or vulnerable person within the workplace. The DBS enables organisations in the public, private and voluntary sectors to make safer employment decisions by identifying candidates who may be unsuitable for certain work, especially that which involves vulnerable groups including children.
- 4.3 Enhanced certificates with a check of the barred lists include details of spent and unspent convictions recorded on the Police National Computer (PNC), any additional information which a chief officer of police believes to be relevant and ought to be disclosed, as well as indicating whether the individual is barred from working in regulated activity with children or adults. Spent convictions and cautions are disclosed on standard and enhanced certificates according to rules set out in legislation. Convictions which resulted in a custodial sentence, and convictions or cautions for a specified serious offence such as those involving child sexual abuse will always be disclosed on a standard or enhanced certificate. Full details of the disclosure rules, and those offences which will always be disclosed, are available from the [DBS](#). As well as convictions and cautions, an enhanced certificate may include additional information which a chief police officer reasonably believes is relevant and ought to be disclosed. Chief police officers must have regard to the [statutory guidance](#) issued by the Home Office when considering disclosure. A summary of the information provided at each level of DBS checks is annexed to this document (Annex – Disclosure and Barring Service information).
- 4.4 It should be noted that licensing authorities must not circumvent the DBS process and seek to obtain details of previous criminal convictions and other information that may not otherwise be disclosed on a DBS certificate. Whilst data protection legislation (not just the Data Protection Act 2018 or General Data Protection Regulation (GDPR)) gives individuals (or data subjects) a 'right of access' to the personal data that an organisation holds about them, it is a criminal offence to require an individual to exercise their subject access rights so as to gain information about any convictions and cautions. This could potentially lead to the authority receiving information to which it is not entitled. The appropriate way of accessing an individual's criminal records is through an enhanced DBS and barred lists check.

The Disclosure and Barring Service Update Service

- 4.5 Subscription to the DBS Update Service allows those with standard and enhanced certificates to keep these up to date online and, with the individual's consent, allows nominees to check the status of a certificate online at any time. Subscription to the service removes the need for new certificates to be requested, reduces the administrative burden and mitigates potential delays in relicensing.
- 4.6 The DBS will search regularly to see if any relevant new information has been received since the certificate was issued. The frequency varies depending on the type of information; for criminal conviction and barring information, the DBS will search for updates on a weekly basis. For non-conviction information, the DBS will search for updates every nine months.
- 4.7 Licensing authorities are able to request large numbers of status checks on a daily basis. The DBS has developed a Multiple Status Check Facility (MSCF) that can be accessed via a web service. The MSCF enables organisations to make an almost unlimited number of Status Checks simultaneously. Further information on the MSCF is available from the [DBS](#).
- 4.8 Should the MSCF advise that new information is available the DBS certificate should no longer be relied upon and a new DBS certificate requested.

Common Law Police Disclosure

- 4.9 The DBS is not the only source of information that should be considered as part of a fit and proper assessment for the licensing of taxi and private hire vehicle drivers. Common Law Police Disclosure ensures that where there is a public protection risk, the police will pass information to the employer or regulatory body to allow them to act swiftly to mitigate any danger.
- 4.10 Common Law Police Disclosure replaced the Notifiable Occupations Scheme (NOS) in March 2015 and focuses on providing timely and relevant information which might indicate a public protection risk. Information is passed on at arrest or charge, rather than on conviction which may be some time after, allowing any measures to mitigate risk to be put in place immediately.
- 4.11 This procedure provides robust safeguarding arrangements while ensuring only relevant information is passed on to employers or regulatory bodies. **Licensing authorities should maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used.**

Licensee self-reporting

- 4.12 Licence holders should be required to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. An arrest for any of the offences within this scope should result in a review by the issuing authority as to whether the licence holder is fit to continue to do so. This must not

however be seen as a direction that a licence should be withdrawn; it is for the licensing authority to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities. Should an authority place an obligation on licensees to notify under these circumstances, authorities should also ensure appropriate procedures are in place to enable them to act in a suitable timeframe if and when needed.

- 4.13 Importantly, a failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

Referrals to the Disclosure and Barring Service and the Police

- 4.14 In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS. **A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, should be referred to the DBS.** The power for the licensing authority to make a referral in this context arises from the undertaking of a safeguarding role. Further guidance has been provided by the [DBS](#).

- 4.15 The Department recommends that licensing authorities should make a referral to the DBS when it is thought that:

- an individual has harmed or poses a risk of harm to a child or vulnerable adult;
- an individual has satisfied the '[harm test](#)'; or
- received a caution or conviction for a relevant offence and;
- the person they are referring is, has or might in future be working in regulated activity;

if the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to a barred list.

- 4.16 These referrals may result in the person being added to a barred list and enable other licensing authorities to consider this should further applications to other authorities be made. Further information on referrals to DBS is [available](#).

Working with the Police

- 4.17 The police are an invaluable source of intelligence when assessing whether a licensing applicant is a 'fit and proper' person. It is vital that licensing authorities have a partnership with the police service to ensure that appropriate information is shared as quickly as possible. As part of building an effective working relationship between the licensing authority and the police, **action taken by the licensing authority as a result of information received should be fed-back to the police.** Increasing the awareness among police forces of the value licensing authorities place on the information received, particularly on non-conviction intelligence, will assist furthering these relationships and reinforce the benefits of greater sharing of information.
- 4.18 This relationship can be mutually beneficial, assisting the police to prevent crime. The police can gain valuable intelligence from drivers and operators, for example, the identification of establishments that are selling alcohol to minors or drunks, or the frequent transportation of substance abusers to premises.
- 4.19 To aid further the quality of the information available to all parties that have a safeguarding duty, a revocation or refusal on public safety grounds should also be advised to the police.

Sharing licensing information with other licensing authorities

- 4.20 As has been stated elsewhere in this document, obtaining the fullest information minimises the doubt as to whether an applicant or licensee is 'fit and proper'. An obvious source of relevant information is any previous licensing history. **Applicants and licensees should be required to disclose if they hold or have previously held a licence with another authority. An applicant should also be required to disclose if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority.** Licensing authorities should explicitly advise on their application forms that making a false statement or omitting to provide the information requested may be a criminal offence.
- 4.21 The LGA's Councillors' [Handbook on taxi and private hire vehicle licensing](#) advises that those responsible for licensing should "*communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared and that there is a consistency and robustness in decision-making. By working together, local government can make sure that this vital service is safe, respected, and delivering for local communities.*". While this approach may aid consistency and robustness in decision-making within regions, it has obvious inherent limitations as it is unlikely such protocols could be established between all licensing authorities. The LGA commissioned the National Anti-Fraud Network to develop a national register of taxi and private hire vehicle driver licence refusals and revocations (the register is known as 'NR3'). **Tools such as NR3 should be used by licensing authorities to share information on a more consistent basis to mitigate the risk of non-disclosure of relevant information by applicants.**

- 4.22 For these processes to be beneficial, all licensing authorities must keep a complete and accurate record as to the reasons for refusal, suspension or revocation of a licence in order that this might be shared if requested and appropriate to do so.
- 4.23 Data protection legislation provides exemption from the rights of data subjects for the processing of personal data in connection with regulatory activities. This includes taxi and private hire vehicle licensing. The exemption applies only to information processed for the core regulatory activities of appropriate organisations; it may not be used in a blanket manner. The exemption applies only to the extent that the application of the rights of data subjects to the information in question would be likely to prejudice the proper discharge of the regulatory functions. The Information Commissioner's Office has published [guidance](#) to assist organisations to fully understand their obligations and suggest good practice.
- 4.24 If notification under paragraph 4.20 or 4.21 of a refused or revoked licence is disclosed, the relevant licensing authority should be contacted to establish when the licence was refused, suspended or revoked and the reasons why. In those circumstances, the relevant licensing authority must consider whether it should disclose any information in relation to the previous decision, consistent with its obligations under data protection legislation. If information is disclosed, it can then be taken into account in determining the applicant's fitness to be licensed. The relevance of the reason for refusing/revoking a licence must be considered. For example, if any individual was refused a licence for failing a local knowledge test, it does not have any safeguarding implications. Conversely, a revocation or refusal connected to indecency would. Licensing authorities should not simply replicate a previous decision, authorities must consider each application on its own merits and with regard to its own policies.
- 4.25 Should a licensing authority receive information that a licence holder did not disclose the information referred to in paragraph 4.20, for example by checking the NR3 register, the authority should consider whether the non-disclosure represents dishonesty and should review whether the licence holder remains 'fit and proper'.

Multi-agency Safeguarding Hub (MASH)

- 4.26 Multi-Agency Safeguarding Hubs are a way to improve the safeguarding response for children and vulnerable adults through better information sharing and high quality and timely safeguarding responses. MASHs (or similar models) should operate on three common principles: information sharing, joint decision making and coordinated intervention.
- 4.27 The Home Office report on [Multi Agency Working and Information Sharing](#) recommended that effective multi-agency working still needs to become more widespread. The Children's Commissioner's 2013 [Inquiry into Child Sexual Exploitation in Gangs and Groups](#) found that both police and local authorities still identified the inability to share information as a key barrier to safeguarding children from sexual abuse and exploitation.

- 4.28 All licensing authorities should operate or establish a means to facilitate the objectives of a MASH (i.e. the sharing of necessary and relevant information between stakeholders). As has been emphasised throughout this document, one of the most effective ways to minimise the risk to children and vulnerable adults when using taxis and private hire vehicles is to ensure that decisions on licensing individuals are made with the fullest knowledge possible.

Complaints against licensees

- 4.29 Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence. **All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees.** Such a system will help authorities to build a fuller picture of the potential risks an individual may pose and may tip the 'balance of probabilities' assessment that licensing authorities must take.
- 4.30 Licensees with a high number of complaints made against them should be contacted by the licensing authority and concerns raised with the driver and operator (if appropriate). Further action in terms of the licence holder must be determined by the licensing authority, which could include no further action, the offer of training, a formal review of the licence, or formal enforcement action.
- 4.31 To ensure that passengers know who to complain to, licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that should be available on their website. Ways to make complaint to the authority should be displayed in all licensed vehicles. This is likely to result in additional work for the licensing authority but has the advantage of ensuring consistency in the handling of complaints. Currently, it is more likely that a complaint against a taxi driver would be made directly to the licensing authority whereas a complaint against a private hire vehicle driver is more likely to be made to the operator. An effective partnership in which operators can share concerns regarding drivers is also encouraged.
- 4.32 Importantly, this approach will assist in the directing of complaints and information regarding the behaviour of drivers who may be carrying a passenger outside of the area in which the driver is licensed to the authority that issued the licence. In order for this to be effective licensing authorities must ensure that drivers are aware of a requirement to display information on how to complain and take appropriate sanctions against those that do not comply with this requirement.
- 4.33 In terms of investigating complaints CCTV footage of an incident can provide an invaluable insight, providing an 'independent witness' to an event. This can assist in the decision whether to suspend or revoke a licence. The potential benefits of mandating CCTV in vehicles is discussed in paragraphs 7.7 - 7.12.

Overseas convictions

- 4.34 The DBS cannot access criminal records held overseas, only foreign convictions that are held on the Police National Computer may, subject to the disclosure rules, be disclosed. Therefore, a DBS check may not provide a complete picture of an individual's criminal record where there have been periods living or working overseas; the same applies when an applicant has previously spent an extended period (three or more continuous months) outside the UK. It should however be noted that some countries will not provide an 'Certificate of Good Character' unless the individual has been resident for six months or more
- 4.35 Licensing authorities should seek or require applicants to provide where possible criminal records information or a 'Certificate of Good Character' from overseas in this circumstance to properly assess risk and support the decision-making process (. It is the character of the applicant as an adult that is of particular interest, therefore an extended period outside the UK before the age of 18 may be less relevant. As with all licensing decisions, each case must be considered on its own merits. For information on applying for overseas criminal record information or 'Certificates of Good Character' please see the Home Office [guidance](#).
- 4.36 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed in the annex to this document (Annex – Assessment of previous convictions), licensing authorities should advise the applicant to seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.

5. Decision Making

Administration of the licensing framework

- 5.1 A policy is only effective if it is administered properly. The taxi and private hire vehicle licensing functions of local councils are non-executive functions i.e. they are functions of the council rather than the executive (such as the Cabinet). The functions include the determination of licence applications, reviews and renewals, along with the attachment of conditions when considered appropriate. The function may be delegated to a committee, a sub-committee or an officer – which should be set out within a clear scheme of delegation. In London the taxi and private hire vehicle licensing function is undertaken by Transport for London.
- 5.2 Licensing authorities should ensure that all individuals that determine whether a licence is issued or refused are adequately resourced to allow them to discharge the function effectively and correctly.

Training decision makers

- 5.3 **All individuals that determine whether a licence is issued should be required to undertake sufficient training.** As a minimum, training for a member of a licensing committee should include: licensing procedures, natural justice, understanding the risks of CSAE, disability and equality awareness and the making of difficult and potentially controversial decisions. Training should not simply relate to procedures, but should include the use of case study material to provide context and real scenarios. All training should be formally recorded by the licensing authority and require a signature from the person that has received the training. Training is available from a number of organisations including the Institute of Licensing and Lawyers in Local Government; the LGA may also be able to assist in the development of training packages.
- 5.4 Public safety is the paramount consideration but the discharge of licensing functions must be undertaken in accordance with the following general principles:
- policies should be used as internal guidance, and should be supported by a member/officer code of conduct.
 - any implications of the Human Rights Act should be considered.
 - the rules of natural justice should be observed.
 - decisions must be reasonable and proportionate.
 - where a hearing is required it should be fairly conducted and allow for appropriate consideration of all relevant factors.
 - decision makers must avoid bias (or even the appearance of bias) and predetermination.
 - data protection legislation.

5.5 When a decision maker has a prejudicial interest in a case, whether it be financial or a personal relationship with those involved they should declare their interest at the earliest opportunity; this must be prior to any discussions or votes and, once declared, they must leave the room for the duration of the discussion or vote.

The regulatory structure

5.6 It is recommended that councils operate with a Regulatory Committee or Board that is convened at periodic intervals to determine licensing matters, with individual cases being considered by a panel of elected and suitably trained councillors drawn from a larger Regulatory Committee or Board. This model is similar to that frequently adopted in relation to other licensing matters. To facilitate the effective discharge of the functions, less contentious matters can be delegated to appropriately authorised council officers via a transparent scheme of delegation.

5.7 It is considered that this approach also ensures the appropriate level of separation between decision makers and those that investigate complaints against licensees, and is the most effective method in allowing the discharge of the functions in accordance with the general principles referred to in 5.4. In particular, the Committee/Board model allows for:

- Each case to be considered on its own merits. It is rare for the same councillors to be involved in frequent hearings – therefore the councillors involved in the decision making process will have less knowledge of previous decisions and therefore are less likely to be influenced by them. Oversight and scrutiny can be provided in relation to the licensing service generally, which can provide independent and impartial oversight of the way that the functions are being discharged within the authority.
- Clear separation between investigator and the decision maker – this demonstrates independence, and ensures that senior officers can attempt to resolve disputes in relation to service actions without the perception that this involvement will affect their judgement in relation to decisions made at a later date.

5.8 Avoidance of bias or even the appearance of bias is vital to ensuring good decisions are made and instilling and/or maintaining confidence in the licensing regime by passengers and licensees.

5.9 Unlike officers, elected members are not usually involved in the day to day operation of the service and as such do not have relationships with licence holders that may give the impression that the discharge of a function is affected by the relationship between the decision maker and the licence holder.

5.10 Some licensing authorities may decide to operate a system whereby all matters are delegated to a panel of officers; however, this approach is not recommended and caution should be exercised. Decisions must be, and be seen to be, made objectively, avoiding any bias. In addition, it may be more difficult to demonstrate compliance with the principles referred to above due to the close

connection between the officers on the panel, and those involved in the operational discharge of the licensing functions.

- 5.11 Whether the structure proposed is introduced or an alternative model is more appropriate in local circumstances, the objective should remain the same - to separate the investigation of licensing concerns and the management of the licence process. Regardless of which approach is adopted, **all licensing authorities should consider arrangements for dealing with serious matters that may require the immediate revocation of a licence.** It is recommended that this role is delegated to a senior officer/manager with responsibility for the licensing service.

Fit and proper test

- 5.12 Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

- 5.13 If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.
- 5.14 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 5.4) the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

Criminal convictions and rehabilitation

- 5.15 In considering an individual's criminal record, licensing authorities must consider each case on its merits, but they should take a particularly cautious view of any offences against individuals with special needs, children and other vulnerable groups, particularly those involving violence, those of a sexual nature and those linked to organised crime. In order to achieve consistency, and to mitigate the risk of successful legal challenge, licensing authorities should have a clear policy for the consideration of criminal records. This should include, for example, which offences would prevent an applicant from being licenced regardless of the period elapsed in all but truly exceptional circumstances. In the case of lesser offences, a policy should consider the number of years the authority will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.

- 5.16 Annexed to this document are the Department's recommendations on the assessment of previous convictions (Annex – Assessment of previous convictions). This draws on the work of the Institute of Licensing, in partnership with the LGA, the National Association of Licensing Enforcement Officers (NALEO) and Lawyers in Local Government, in publishing its guidance on determining the suitability of taxi and private hire vehicle licensees.
- 5.17 These periods should be taken as a starting point in considering whether a licence should be granted or renewed in all cases. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain a licence. Authorities are however reminded that applicants are entitled to a fair and impartial consideration of their application.

6. Driver Licensing

Criminality checks for drivers

- 6.1 Licensing authorities are entitled to request an enhanced criminal record certificate with check of the barred lists from the DBS for all driver licence holders or applicants. The DfT's 2019 [survey of taxi and private hire vehicle licensing authorities](#) shows that all licensing authorities in England and Wales have a requirement that an enhanced DBS check is undertaken at first application or renewal.
- 6.2 All individuals applying for or renewing a taxi or private hire vehicle drivers licence licensing authorities should carry out a check of the children and adult Barred Lists in addition to being subject to an enhanced DBS check (in section x61 of the DBS application 'Other Workforce' should be entered in line 1 and 'Taxi Licensing' should be entered at line 2). All licensed drivers should also be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months. Drivers that do not subscribe up to the Update Service should still be subject to a check every six months.
- 6.3 Driving a taxi or private hire vehicle is not, in itself, a regulated activity for the purposes of the barred list. This means that an individual subject to barring would not be legally prevented from being a taxi or private hire vehicle driver but the licensing authority should take an individual's barred status into account alongside other information available. **In the interests of public safety, licensing authorities should not, as part of their policies, issue a licence to any individual that appears on either barred list.** Should a licensing authority consider there to be exceptional circumstances which means that, based on the balance of probabilities they consider an individual named on a barred list to be 'fit and proper', the reasons for reaching this conclusion should be recorded.
- 6.4 Drivers working under an arrangement to transport children may be working in 'regulated activity' as defined by the [Safeguarding Vulnerable Groups Act 2006](#). It is an offence to knowingly allow a barred individual to work in regulated activity. The [guidance on home-to-school travel and transport](#) issued by the Department for Education should be considered alongside this document. Please see [guidance](#) on driver DBS eligibility and how to apply.

Safeguarding awareness

- 6.5 Licensing authorities should consider the role that those in the taxi and private hire vehicle industry can play in spotting and reporting the abuse, exploitation or neglect of children and vulnerable adults. As with any group of people, it is overwhelmingly the case that those within the industry can be an asset in the detection and prevention of abuse or neglect of children and vulnerable adults. However, this is only the case if they are aware of and alert to the signs of potential abuse and know where to turn to if they suspect that a child or vulnerable adult is at risk of harm or is in immediate danger.

6.6 All licensing authorities should provide safeguarding advice and guidance to the trade and should require taxi and private hire vehicle drivers to undertake safeguarding training. This is often produced in conjunction with the police and other agencies. These programmes have been developed to help drivers and operators:

- provide a safe and suitable service to vulnerable passengers of all ages;
- recognise what makes a person vulnerable; and
- understand how to respond, including how to report safeguarding concerns and where to get advice.

6.7 Since 2015, the Department for Education (DfE) has run a nationwide campaign – *‘Together, we can tackle child abuse’* which aims to increase public understanding of how to recognise the signs to spot and encourage them to report child abuse and neglect. The DfE continues to promote and raise awareness of the campaign materials through its [online toolkit](#), for local authorities, charities and organisations for use on their social media channels.

‘County lines’ exploitation

6.8 County lines is a term used to describe gangs and organised criminal networks involved in exporting illegal drugs (primarily crack cocaine and heroin) into one or more importing areas [within the UK], using dedicated mobile phone lines or other form of “deal line”.

6.9 Exploitation is an integral part of the county lines offending model with children and vulnerable adults exploited to transport (and store) drugs and money between locations. Children aged between 15-17 make up the majority of the vulnerable people involved in county lines, but they may also be much younger. We know that both girls and boys are groomed and exploited and offenders will often use coercion, intimidation, violence (including sexual violence) and weapons to ensure compliance of victims. Children exploited by county lines gangs may have vulnerabilities besides their age, such as broader mental health issues, disrupted or chaotic homes, substance misuse issues, being excluded from school or frequently going missing.

6.10 The National Crime Agency’s 2018 county lines threat assessment set out that the national road network is key to the transportation of county lines victims, drugs and cash; with hire vehicles being one of the methods used for transportation between locations.

6.11 Safeguarding awareness training should include the ways in which drivers can help to identify county lines exploitation. Firstly, they should be aware of the following warning signs:

- Children and young people travelling in taxis or private hire vehicles alone;

- travelling at unusual hours (during school time, early in the morning or late at night);
- travelling long distances;
- unfamiliar with the local area or do not have a local accent;
- paying for journeys in cash or prepaid.

6.12 The Home Office is working with partners to raise awareness of county lines and has provided [material](#) to help taxi and private vehicle hire staff to identify victims and report concerns to protect those exploited through this criminal activity.

6.13 Drivers (or any person) should be aware of what to do if they believe a child or vulnerable person is at risk of harm. If the risk is immediate they should contact the police otherwise they should:

- use the local safeguarding process, the first step of which is usually to contact the safeguarding lead within the local authority;
- call Crime Stoppers on 0800 555 111.

Language proficiency

6.14 A lack of language proficiency could impact on a driver's ability to understand written documents, such as policies and guidance, relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation. Oral proficiency will be of relevance in the identification of potential exploitation through communicating with passengers and their interaction with others.

6.15 A licensing authority's test of a driver's proficiency should cover both oral and written English language skills to achieve the objectives stated above.

7. Vehicle Licensing

7.1 As with driver licensing, the objective of vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity. Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime.

Criminality checks for vehicle proprietors

7.2 Enhanced DBS and barred list checks are not available for vehicle licensing. **Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the ‘fit and proper’ threshold.

7.3 However, it is important that authorities acknowledge that in many cases individuals that license a vehicle may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking to licence a vehicle to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately.

7.4 A refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a vehicle or private hire vehicle operator licence; these decisions must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant’s full consent has been given.

7.5 Private hire vehicle operator and vehicle licences may be applied for by a company or partnership; licensing authorities should apply the ‘fit and proper’ test to each of the directors or partners in that company or partnership. For this to be effective private hire vehicle operators and those to whom a vehicle licence should be required to advise the licensing authority of any change in directors or partners.

7.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas so other checks must be considered where and applicant has lived or worked overseas (see paragraph 4.34 - 4.36).

In-vehicle visual and audio recording – CCTV

7.7 Government has acknowledged the potential risk to public safety when passengers travel in taxis and private hire vehicles. It is unfortunately the case that no matter how complete the information available to licensing authorities is when assessing whether to issue any taxi or private hire vehicle licence, nor how robust the policies in place are and the rigor with which they are applied, it will never completely remove the possibility of harm to passengers by drivers.

7.8 The Department's view is that CCTV can provide additional deterrence to prevent this and investigative value when it does. The use of CCTV can provide a safer environment for the benefit of taxi/private hire vehicle passengers and drivers by:

- deterring and preventing the occurrence of crime;
- reducing the fear of crime;
- assisting the police in investigating incidents of crime;
- assisting insurance companies in investigating motor vehicle accidents.

7.9 All licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues.

7.10 While only a small minority of licensing authorities have so far mandated all vehicles to be fitted with CCTV systems, the experience of those authorities that have has been positive for both passengers and drivers. In addition, the evidential benefits of CCTV may increase the level of reporting of sexual offences. According to the [Crime Survey for England and Wales](#) only 17 percent of victims report their experiences to the police, 28 percent of rape or sexual assault victims indicated that a fear they would not be believed as a factor in them not reporting the crime. The evidential benefits CCTV could provide are therefore an important factor when considering CCTV in vehicles.

7.11 The mandating of CCTV in vehicles may deter people from seeking a taxi or private hire vehicle licence with the intent of causing harm. Those that gain a licence and consider perpetrating an opportunistic attack against a vulnerable unaccompanied passenger may be deterred from doing so. It is however unfortunately the case that offences may still occur even with CCTV operating.

7.12 CCTV systems that are able to record audio as well as visual data may also help the early identification of drivers that exhibit inappropriate behaviour toward passengers. Audio recording should be both overt (i.e. all parties should be aware when recordings are being made) and targeted (i.e. only when passengers (or

drivers) consider it necessary). The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button.

- 7.13 Imposition of a blanket requirement to attach CCTV as a condition to a licence is likely to give rise to concerns about the proportionality of such an approach and will therefore require an appropriately strong justification and must be kept under regular review. More information and guidance on assessing the impacts of CCTV and on an authority mandating CCTV is annexed to this document (Annex – CCTV guidance).

Stretched Limousines

- 7.14 Licensing authorities are sometimes asked to license small (those constructed or adapted to carry fewer than nine passengers) limousines as private hire vehicles, these vehicles may be used for transport to 'school proms' as well as for adult bookings. It is suggested that licensing authorities should approach such requests on the basis that these vehicles – where they have fewer than nine passenger seats - have a legitimate role to play in the private hire trade, meeting a public demand. It is the Department's view that it is not a legitimate course of action for licensing authorities to adopt policies that exclude limousines as a matter of principle thereby excluding these services from the scope of the private hire vehicle regime and the safety benefits this provides. A blanket policy of excluding limousines may create an unacceptable risk to the travelling public, as it may lead to higher levels of unsupervised operation. Public safety considerations are best supported by policies that allow respectable, safe operators to obtain licences on the same basis as other private hire vehicle operators.
- 7.15 Stretched large limousines which clearly seat more than eight passengers should not be licensed as private hire vehicles because they are outside the licensing regime for private hire vehicles. However, in some circumstances a vehicle with space for more than eight passengers can be licensed as a private hire vehicle where the precise number of passenger seats is hard to determine. In these circumstances, the authority should consider the case on its merits in deciding whether to license the vehicle under the strict condition that the vehicle will not be used to carry more than eight passengers, bearing in mind that refusal may encourage illegal private hire operation.

8. Private Hire Vehicle Operator Licensing

8.1 As with driver licensing, the objective in licensing private hire vehicle operators is to protect the public, who may be using operators' premises and trusting that the drivers and vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those that are granted a private hire vehicle operator also pose no threat to the public and have no links to serious criminal activity. Although private hire vehicle operators may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the driver licensing regime.

Criminality checks for private hire vehicle operators

8.2 Enhanced DBS and barred list checks are not available for private hire vehicle operator licensing. **Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the 'fit and proper' threshold.

8.3 However, it is important that authorities acknowledge that in many cases individuals that license as a private hire vehicle operator may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking a private hire vehicle operator licence to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately

8.4 Refusal to license in individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a private hire vehicle operator licence; this decision must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

8.5 A private hire vehicle operator licence may be applied for by a company or partnership; licensing authorities should apply the 'fit and proper' test to each of the directors or partners in that company or partnership. For this to be effective

private hire vehicle operators should be required to advise the licensing authority of any change in directors or partners.

- 8.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas. Further information on assessing the suitability of those that have spent extended periods in overseas is provided in paragraphs 4.34 - 4.36.

Booking and dispatch staff

- 8.7 Private hire vehicle drivers are not the only direct contact that private hire vehicle users have with private hire vehicle operators' staff, for example a person taking bookings (be it by phone or in person). A vehicle dispatcher decides which driver to send to a user, a position that could be exploited by those seeking to exploit children and vulnerable adults. It is therefore appropriate that all staff that have contact with private hire vehicle users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults.
- 8.8 Licensing authorities should be satisfied that private hire vehicle operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public. **Licensing authorities should, as a condition of granting an operator licence, require a register of all staff that will take bookings or dispatch vehicles is kept.**
- 8.9 Operators should be required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders. DBS certificates provided by the individual should be recently issued when viewed, alternatively the operator could use a '[responsible organisation](#)' to request the check on their behalf. When individuals start taking bookings and dispatching vehicles for an operator they should be required, as part of their employment contract, to advise the operator of any convictions while they are employed in this role.
- 8.10 The register should be a 'living document' that maintains records of all those in these roles for the same duration as booking records are required to be kept, this will enable cross-referencing between the two records. A record that the operator has had sight of a basic DBS check certificate (although the certificate itself should not be retained) should be retained for the duration that the individual remains on the register. Should an employee cease to be on the register and later re-entered, a new basic DBS certificate should be requested and sight of this recorded.
- 8.11 Operators may outsource booking and dispatch functions but they cannot pass on the obligation to protect children and vulnerable adults. Operators should be required to evidence that comparable protections are applied by the company to which they outsource these functions.

8.12 Licensing authorities should also require operators or applicants for a licence to provide their policy on employing ex-offenders in roles that would be on the register as above. As with the threshold to obtaining a private hire vehicle operators' licence, those with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, may not be suitable to decide who is sent to carry a child or vulnerable adult unaccompanied in a car.

Record keeping

8.13 Section 56 of the [Local Government \(Miscellaneous Provisions\) Act 1976](#) requires private hire vehicle operators to keep records of the particulars of every booking invited or accepted, whether it is from the passenger or at the request of another operator. **Licensing authorities should as a minimum require private hire vehicle operators to record the following information for each booking:**

- the name of the passenger;
- the time of the request;
- the pick-up point;
- the destination;
- the name of the driver;
- the driver's licence number;
- the vehicle registration number of the vehicle;
- the name of any individual that responded to the booking request;
- the name of any individual that dispatched the vehicle.

8.14 This information will enable the passenger to be traced if this becomes necessary and should improve driver security and facilitate enforcement. It is suggested that booking records should be retained for a minimum of six months.

8.15 Private hire vehicle operators have a duty under data protection legislation to protect the information they record. The Information Commissioner's Office provides comprehensive on-line guidance on registering as a data controller and how to meet their obligations.

Use of passenger carrying vehicles (PCV) licensed drivers

8.16 PCV licensed drivers are subject to different checks from taxi and private hire vehicle licensed drivers as the work normally undertaken, i.e. driving a bus, does not present the same risk to passengers. Members of the public are entitled to expect when making a booking with a private hire vehicle operator that they will receive a private hire vehicle licensed vehicle and driver. **The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such**

as a minibus to undertake a private hire vehicle booking should not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the booker.

- 8.17 Where a private hire vehicle is unsuitable, for example where a larger vehicle is needed because more than eight passenger seats required or to accommodate luggage, the booker should be informed that a PSV is necessary, and that a PCV licenced driver will be used who is subject to different checks and not required to have an enhanced DBS check.

9. Enforcing the Licensing Regime

9.1 Implementing an effective framework for licensing authorities to ensure that as full a range of information made available to suitably trained decision makers that are supported by well-resourced officials is essential to a well-functioning taxi and private hire vehicle sector. These steps will help prevent the licensing of those that are not deemed 'fit and proper' but does not ensure that those already licensed continue to display the behaviours and standards expected.

Joint authorisation of enforcement officers

9.2 Licensing authorities should, where the need arises, jointly authorises officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area. An agreement between licensing authorities to jointly authorise officers enables the use of enforcement powers regardless of which authority within the agreement the officer is employed by and which issued the licence. This will mitigate the opportunities for drivers to evade regulation. Such an agreement will enable those authorities to take action against vehicles and drivers that are licensed by the other authority when they cross over boundaries. A model for agreeing joint authorisation is contained in the [LGA Councillors' handbook](#).

Setting expectations and monitoring

9.3 Licensing authorities should ensure that drivers are aware of the policies that they must adhere and are properly informed of what is expected of them and the repercussions for failing to do so. Some licensing authorities operate a points-based system, which allows minor breaches to be recorded and considered in context while referring those with persistent or serious breaches to the licensing committee. This has the benefit of consistency in enforcement and makes better use of the licensing committee's time.

9.4 The provision of a clear, simple and well-publicised process for the public to make complaints about drivers and operators will enable authorities to target compliance and enforcement activity (see paragraphs 4.29 - 4.33). This will provide a further source of intelligence when considering the renewal of licences and of any additional training that may be required. It is then for the licensing authority to consider if any intelligence indicates a need to suspend or revoke a licence in the interests of public safety.

Suspension and revocation of driver licences

9.5 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 provides a licensing authority with the ability to suspend or revoke a driver's licence on the following grounds: -

(a) that he has since the grant of the licence—

- (i) been convicted of an offence involving dishonesty, indecency or violence; or
- (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act;
- (aa) that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or
- (b) any other reasonable cause

- 9.6 Licensing authorities have the option to suspend or revoke a licence should information be received that causes concern over whether a driver is a fit and proper person. Where the licence holder has been served an immigration penalty or convicted of an immigration offence the licence should be revoked immediately. [Guidance for licensing authorities](#) to prevent illegal working in the taxi and private hire vehicle sector has been issued by the Home Office. As with the initial decision to license a driver, this determination must be reached based on the balance of probabilities, not on the burden of beyond reasonable doubt.
- 9.7 Before any decision is made, the licensing authority must give full consideration to the available evidence and the driver should be given the opportunity to state his or her case. If a period of suspension is imposed, it cannot be extended or changed to revocation at a later date.
- 9.8 A decision to revoke a licence does not however prevent the reissuing of a licence should further information be received that alters the balance of probability of a decision previously made. The decision to suspend or revoke was based on the evidence available at the time the determination was made. New evidence may, of course, become available later.
- 9.9 New evidence may be produced at an appeal hearing that may result in the court reaching a different decision to that reached by the council or an appeal may be settled by agreement between the licensing authority and the driver on terms which, in the light of new evidence, becomes the appropriate course. If, for example, the allegations against a driver were now, on the balance of probability, considered to be unfounded, a suspension could be lifted or, if the licence was revoked, an expedited re-licensing process used.
- 9.10 A suspension may still be appropriate if it is believed that a minor issue can be addressed through additional training. In this instance the licence would be returned to the driver once the training has been completed without further consideration. This approach is clearly not appropriate where the licensing authority believes that, based on the information available at that time, on the balance of probability it is considered that the driver presents a risk to public safety.

Annex – Assessment of Previous Convictions

Legislation specifically identifies offences involving dishonesty, indecency or violence as a concern when assessing whether an individual is 'fit and proper' to hold a taxi or private hire vehicle licence. The following recommendations to licensing authorities on previous convictions reflect this.

Authorities must consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial consideration of their application. Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence.

Crimes resulting in death

Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

Exploitation

Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

Offences involving violence against the person

Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Possession of a weapon

Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Sexual offences

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted.

In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.

Dishonesty

Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Drugs

Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs.

Discrimination

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Motoring convictions

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.

Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the authority considers that the licensee remains a fit and proper person to retain a licence.

Drink driving/driving under the influence of drugs

Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least seven years have elapsed since the completion of any sentence or driving ban imposed. In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Using a hand-held device whilst driving

Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Annex – Disclosure and Barring Service information

Table 1: Information included in criminal record checks

Information included	Type of check			
	Basic check	Standard DBS check	Enhanced DBS check	Enhanced DBS (including barred list) check
Unspent convictions	Yes	Yes	Yes	Yes
Unspent cautions ¹	Yes	Yes	Yes	Yes
Spent convictions ²	No	Yes	Yes	Yes
Spent cautions ^{1 & 2}	No	Yes	Yes	Yes
Additional police Information ³	No	No	Yes	Yes
Barred list(s) Information ⁴	No	No	No	Yes

1. Does not include fixed penalty notices, penalty notices for disorder or any other police or other out-of-court disposals.
2. Spent convictions and cautions that have become protected under the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975, as amended, are not automatically disclosed on any level of certificate. Further guidance is available [the DBS filtering guide](#).
3. This is any additional information held by the police which a chief police officer reasonably believes to be relevant and considers ought to be disclosed.
4. This is information as to whether the individual concerned is included in the children's or adults' barred lists maintained by the Disclosure and Barring Service (DBS).

Annex – CCTV Guidance

It is important to note that, in most circumstances, a licensing authority which mandates the installation of CCTV systems in taxis and private hire vehicles will be responsible for the data – the data controller. It is important that data controllers fully consider concerns regarding privacy and licensing authorities should consider how systems are configured, should they mandate CCTV (with or without audio recording). For example, vehicles may not be exclusively used for business, also serving as a car for personal use - it should therefore be possible to manually switch the system off (both audio and visual recording) when not being used for hire. Authorities should consider the Information Commissioner's view on this matter that, in most cases, a requirement for continuous operation is unlikely to be fair and lawful processing of personal data.

The Home Office '[Surveillance Camera Code of Practice](#)' advises that government is fully supportive of the use of overt surveillance cameras in a public place whenever that use is:

- in pursuit of a legitimate aim;
- necessary to meet a pressing need;
- proportionate;
- effective, and;
- compliant with any relevant legal obligations

The Code also sets out 12 guiding principles which, as a 'relevant authority' under section 33(5) of the [Protection of Freedoms Act 2012](#), licensing authorities must have regard to. It must be noted that, where a licence is granted subject to CCTV system conditions, the licensing authority assumes the role and responsibility of 'System Operator'. The role requires consideration of all guiding principles in this code. The failure to comply with these principles may be detrimental to the use of CCTV evidence in court as this may be raised within disclosure to the Crown Prosecution Service and may be taken into account.

The Surveillance Camera Commissioner (SCC) has provided guidance on the Surveillance Camera Code of Practice in its '[Passport to Compliance](#)' which provides guidance on the necessary stages when planning, implementing and operating a surveillance camera system to ensure it complies with the code. The Information Commissioner's Office (ICO) has also published a [code of practice](#) which, in this context, focuses on the data governance requirement associated with the use of CCTV such as data retention and disposal, which it is important to follow in order to comply with the data protection principles. The SCC provides a [self-assessment tool](#) to assist operators to ensure compliance with the principles set out in the Surveillance Camera Code of Practice. The SCC also operate a [certification scheme](#); authorities that obtain this accreditation are able to clearly demonstrate that their systems conform to the SCC's best practice and are fully compliant with the Code and increase public confidence that any risks to their privacy have been fully considered and mitigated.

The [Data Protection Act 2018](#) regulates the use of personal data. Part 2 of the Data Protection Act applies to the general processing of personal data, and references and supplements the General Data Protection Regulation. Licensing authorities, as data controllers, must comply with all relevant aspects of data protection law. Particular attention should be paid to the rights of individuals which include the right to be informed, of access

and to erasure. The ICO has provided detailed [guidance](#) on how data controllers can ensure compliance with these.

It is a further requirement of data protection law that before implementing a proposal that is likely to result in a high risk to the rights and freedoms of people, an impact assessment on the protection of personal data shall be carried out. The ICO recommends in [guidance](#) that if there is any doubt as to whether a Data Protection Impact Assessment (DPIA) is required one should be conducted to ensure compliance and encourage best practice. A DPIA will also help to assess properly the anticipated benefits of installing CCTV (to passengers and drivers) and the associated privacy risks; these risks might be mitigated by having appropriate privacy information and signage, secure storage and access controls, retention policies, training for staff how to use the system, etc.

It is essential to ensure that all recordings made are secure and can only be accessed by those with legitimate grounds to do so. This would normally be the police if investigating an alleged crime or the licensing authority if investigating a complaint or data access request. Encryption of the recording to which the licensing authority, acting as the data controller, holds the key, mitigates this issue and protects against theft of the vehicle or device. It is one of the guiding principles of data protection legislation, that personal data (including in this context, CCTV recordings and other potentially sensitive passenger information) is handled securely in a way that 'ensures appropriate security', including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

All passengers must be made fully aware if CCTV is operating in a vehicle. Given that audio recording is considered to be more privacy intrusive, it is even more important that individuals are fully aware and limited only to occasions when passengers (or drivers) consider it necessary. The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button. As well as clear signage in vehicles, information on booking systems should be introduced. This might be text on a website, scripts or automated messages on telephone systems; the Information Commissioner's Office (ICO) has issued guidance on privacy information and the right to be informed on its website.

Annex - Staying Safe: Guidance for Passengers

Licensing authorities should provide guidance to assist passengers in identifying licensed vehicles and the increased risks of using unlicensed vehicles. The guidance might include advice on:

- how to tell if a taxi or private hire vehicle is licensed.

Educate the public in the differences between taxis and private hire vehicles e.g.:

- a taxi can be flagged down or pre-booked.
- a private hire vehicle that has not been pre-booked should not be used as it will not be insured and may not be licensed.
- what a private hire vehicle should look like e.g. colour, signage, licence plates etc.
- the benefit of pre-booking a return vehicle before going out.
- arrange to be picked up from a safe meeting point.
- requesting at the time of booking what the fare is likely to be.

When using a private hire vehicle, passengers should always:

- book with a licensed operator.
- confirm their booking with the driver when s/he arrives.
- note the licence number.
- sit in the back, behind the driver.
- let a third party know details of their journey.

When using a taxi, passengers should where possible:

- use a taxi rank and choose one staffed by taxi marshals if available.

Licensing and Regulatory Committee – Workplan 2020-21

22 February 2021 at 5.30pm	<ul style="list-style-type: none">• Renewal of a Sex Establishment Licence for Ziggy's (Upstairs), 53-55 Micklegate, York, YO1 6LJ• Update on underage sales enforcement activity• Taxi Licensing Policy• Workplan
26 April 2021 at 5.30pm	<ul style="list-style-type: none">• Workplan
8 June 2021 at 5.30pm	<ul style="list-style-type: none">• Workplan
7 September 2021 at 5.30pm	<ul style="list-style-type: none">• Workplan
9 November 2021 at 5.30pm	<ul style="list-style-type: none">• Workplan
8 February 2021 at 5.30pm	<ul style="list-style-type: none">• Workplan
5 April 2021 at 5.30pm	<ul style="list-style-type: none">• Workplan

Other items

- Report outlining policing and other measures in relation to reducing ASB associated to licensable activities
- Review of Council's Constitution on Licensing Appeals
- Review of scheme of delegated powers to officers
- Unmet Demand Update Report
- Annual report on decisions made by officers under delegated powers with regard to applications under the Gambling Act 2005
- Annual report on decisions made by officers under delegated powers with regard to applications under the Licensing Act 2003
- Annual joint report from North Yorkshire Police and the Licensing Service regarding the effects of the Act and licensing policy in swiftly and safely dispersing concentrations of people from licensed venues, to avoid disorder and disturbance. (Transport focused)
- Annual Taxi Fees Account

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